SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 28, 2005

8:38 A.M.

(PAGES 7972 THROUGH 8028)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 7972

APPEARANCES OF COUNSEL:

For Plaintiff: THOMAS W. SNEDDON, JR.,
District Attorney -and-
RONALD J. ZONEN, Sr. Deputy District Attorney
-and- GORDON AUCHINCLOSS,
Sr. Deputy District Attorney 1112 Santa Barbara Street
Santa Barbara, California 93101

For Defendant: COLLINS, MESEREAU, REDDOCK & YU BY: THOMAS A. MESEREAU, JR., ESQ.
-and- SUSAN C. YU, ESQ.
1875 Century Park East, Suite 700 Los Angeles, California 90067
-and-
SANGER & SWYSEN
BY: ROBERT M. SANGER, ESQ. 233 East Carrillo Street, Suite C
Santa Barbara, California 93101

1 I N D E X
2
3 Note: Mr. Sneddon is listed as ?SN? on index.
4 Mr. Zonen is listed as ?Z? on index. Mr. Auchincloss is listed as ?A? on index.
5 Mr. Mesereau is listed as ?M? on index. Ms. Yu is listed as ?Y? on index.
6 Mr. Sanger is listed as ?SA? on index.
7
8
9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS
10
11 JACKSON, Deborah Rowe 7977-Z 7988-M
12 (Contd.)
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Santa Maria, California
Thursday, April 28, 2005
8:38 a.m.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Good morning, everyone.
COUNSEL AT COUNSEL TABLE: (In unison) Good morning.
THE COURT: The reason I came in without the jury is I was provided with a motion to strike the testimony of Debbie Rowe this morning. I assumed you anticipated I would take that up at this moment. Or did you not?
MR. SANGER: We hoped you would, if you would give us the time to do it, Your Honor.
THE COURT: Here's my sense of it: She hasn't testified long enough for me to know, really, what she's going to say, or anyone else. And your motion might be well-taken. It might not. But I -- I understand what she said yesterday, but I don't really understand what she has to say today. So I would want to really hear more testimony, I think.
MR. SANGER: Very well. Well, we briefed it, and Your Honor understands our position.
THE COURT: I understand your position. 7975

I just think the -- she barely got started yesterday. I mean, I really -- I think I'd have to let it -- well, I would have to know more about what she says than what I know already to know whether or not your motion is well-taken.
MR. SANGER: Well, my concern was -- if I may, my concern was to raise it at the earliest possible moment --
THE COURT: I know.
MR. SANGER: -- because if it goes too long, then we get into a position where it's hard to undo it. And if --
THE COURT: I understand that, but --
MR. SANGER: I'm not arguing with the Court.
THE COURT: Okay.
MR. SANGER: I just want to let you know why I think -- whenever you feel --
THE COURT: There is another side of the coin, though. I let the testimony in based on their representations in their written materials, which -- if the testimony is the exact opposite, I mean, isn't that the testimony that would be relevant to your side of the case?
MR. SANGER: Yes and no. And the problem -- I understand that. And we thought about it, but the problem is that this will then lead to a tremendous amount of other collateral testimony to put whatever it is in context. 7976

THE COURT: Okay.
MR. SANGER: And that's my concern. If we go too far down the road, then we pretty much are committed to doing the whole thing.
THE COURT: Okay. Well, let's go further down the road before --
MR. SANGER: Thank you.
THE COURT: Is there anything you -- you didn't get to say anything. I assume --
MR. ZONEN: Nor am I requesting to.
THE COURT: Huh?
MR. ZONEN: Nor am I requesting to.
THE COURT: Okay.

(The following proceedings were held in open court in the presence and hearing of the jury:)

THE COURT: I already said good morning to everyone else, so I'll say good morning to you.
THE JURY: (In unison) Good morning.
THE COURT: You may proceed.
MR. ZONEN: Thank you.

DIRECT EXAMINATION (Continued)
BY MR. ZONEN:
Q. Miss Rowe, good morning.
A. Good morning. 7977

Q. We left off, we were discussing the interview that you had back in February of 2003 at Marc Schaffel's home in Calabasas. And you recall that interview, do you not?
A. Yes.
Q. And I believe that you had testified yesterday that you were at his residence for some time over nine or ten hours; is that correct?
A. Yes.
Q. Approximately how long were you at his residence?
A. We started early in the morning and finished around 9:00, 10:00 at night.
Q. Was your attorney there the entire time?
A. Yes.
Q. Was she in your presence the entire time?
A. No, she was not.
Q. Were there times when you were separated from her?
A. Yes.
Q. All right. What was the purpose of that?
A. To -- I didn't want to see the interviewer before the interview. And the best way to do that was to leave where everything was that was happening in the living room off to the side of the main entrance of the house, so Mr. Schaffel and I went upstairs in his office.
Q. And did you have a conversation with Mr. 7978

1 Schaffel at that time?
2 A. Yes.
3 Q. Did you discuss the interview?
4 A. No.
5 Q. At some point in time, did you take a look
6 at a script?
7 A. No.
8 MR. MESEREAU: Objection; leading.
9 THE COURT: Overruled. The answer was, "No."
10 Q. BY MR. ZONEN: All right. At some point in
11 time, did you see one in somebody else's possession?
12 MR. MESEREAU: Objection; leading.
13 THE COURT: Overruled.
14 THE WITNESS: Mr. Drew had questions; I
15 assume they were questions. He had a number of
16 pages and asked if I wanted to see them. And I said
17 no.
18 Q. BY MR. ZONEN: Do you know how many
19 questions were on that script?
20 A. He told me 105.
21 Q. Do you know if he went over all of those
22 questions during the course of that interview?
23 A. My understanding is we did.
24 Q. And the number of hours that you spent in
25 actual interview was approximately what?
26 A. Nine.
27 Q. Was Mr. Schaffel there the entire time?
28 A. Yes. 7979

Q. Was Mr. Schaffel saying anything during that time?
A. He was hearing sounds in the background, thought it was being picked up on audio, wanted to change what the back --
MR. MESEREAU: Objection; hearsay.
THE COURT: Overruled.
Q. BY MR. ZONEN: Go ahead.
A. Wanted to make sure what the background looked like and everything. He occasionally -- not occasionally, frequently would interject to rephrase a question or an answer. And I told him if that did not --
MR. MESEREAU: Objection. Nonresponsive; narrative.
THE COURT: Sustained at this point.
Q. BY MR. ZONEN: Tell us specifically what he said to you with regards to either questions or answers.
MR. MESEREAU: Objection. Calls for a narrative; hearsay; foundation.
THE COURT: Sustained as to narrative.
MR. ZONEN: All right.
Q. Tell us if he -- let me change that. With regards to answers to your questions, did he make any comments as to answers to your questions?
A. Yes. 7980

Q. What kinds of comments did he make?
A. He --
MR. MESEREAU: Objection. Vague;
foundation; calls for a narrative.
THE COURT: Overruled.
Q. BY MR. ZONEN: Go ahead and answer the
question, if you recall.
A. He would ask me if I would rephrase an
answer or he would ask Mr. Drew to rephrase a
question.
Q. And what types of questions or answers would
he ask you to rephrase?
MR. MESEREAU: Objection; vague.
THE COURT: Sustained.
Q. BY MR. ZONEN: Do you remember any specific
questions that he asked you to rephrase?
MR. MESEREAU: Objection. Misstates the
evidence and vague.
THE COURT: Overruled.
You may answer.
Q. BY MR. ZONEN: You can answer.
A. I don't remember a specific -- there were so
many, I don't remember any specific. I remember at
the end he wanted us to add stuff to clarify what he
thought might be misunderstood or something.
Q. And did you, in fact, make changes in your
interview in accordance with his request?
A. Only if it didn't change the meaning of what 7981

I had to say.
Q. And what was the meaning of what you had to say?
MR. MESEREAU: Objection; vague.
THE COURT: Sustained.
Q. BY MR. ZONEN: All right. What is it that you were intending to represent in this interview?
A. Michael as a wonderful person and as a great father and generous and caring.
Q. All right. Did you have information as to Michael Jackson as a wonderful father?
A. As I've known him?
Q. Yes.
A. Yes.
Q. When was the last time you'd actually talked with him?
A. In 1999.
Q. All right. This was in early 2003; is that correct?
A. Correct.
Q. When was the last time you saw him interact with the children?
A. 1991. I'm sorry, 1999.
Q. In the course of this interview, did you represent yourself as still being part of the family?
A. Yes, I did.
Q. Was that true? 7982

A. No, it was not.
Q. Why did you do it?
A. To protect the children and to try to keep the media and questions away and out of their focus. And to make sure that I could do whatever I could even at a distance.
Q. Did you feel that you were enthusiastic during this interview?
A. I --
MR. MESEREAU: Objection; leading.
THE COURT: Sustained.
Q. BY MR. ZONEN: How did you approach this interview in terms of your affect?
A. I was excited to do it.
Q. Why?
A. Because I would get to see my children and possibly renew a relationship with Mr. Jackson.
Q. Why did you want to do that?
A. They're my family.
Q. Did you consider them your family?
A. Yes.
Q. Did you consider Mr. Jackson to be your family to the same extent as your children?
A. I don't think anyone is as much as your children, but, yes.
Q. How long had it been since you had seen your children?
A. About two and a half years. 7983

Q. At the conclusion of the interview, did you have a conversation with anybody about when you would be able to see your children?
A. Mr. Schaffel said that he was excited, and that we'd be going up to Neverland soon. And I said, "Fine." I said, "Let me know as soon as you can."
Q. Was that something that you wanted to do?
A. Very much. Very much.
Q. When was the last time you had been to Neverland?
A. Years. I couldn't tell you. Probably .99, .98.
Q. Did you make any contact with anybody about seeing your children within the next, say, 30 days or beyond?
MR. MESEREAU: Objection; leading.
THE COURT: Overruled.
You may answer.
THE WITNESS: Mr. Schaffel. I would call --
Q. BY MR. ZONEN: How often -- I'm sorry?
A. I would call him almost weekly. I didn't want to be a noodge, or piss him off, so I would call him and chat him up, and say, "By the way," you know, "Are they back?" You know, "When can I see them?" Because it was my understanding they were out of town.
Q. For what period of time did you continue to 7984

1 contact Mr. Schaffel about that?
2 MR. MESEREAU: Your Honor, we object. Make
3 a motion to exclude.
4 MR. ZONEN: I'd like to respond to it, even
5 if at sidebar.
6 THE COURT: The objection is overruled.
7 You may answer.
8 Q. BY MR. ZONEN: Go ahead.
9 A. About nine months.
10 Q. Did you ever see your children?
11 A. No, I did not.
12 Q. To this day, have you seen your children?
13 A. No, I have not.
14 Q. Have you gone back to court?
15 A. Yes.
16 Q. Have you reinstated parental rights --
17 A. Yes.
18 Q. -- for yourself?
19 MR. MESEREAU: Objection. Leading;
20 foundation.
21 THE COURT: Sustained.
22 MR. MESEREAU: Relevance.
23 Q. BY MR. ZONEN: What did you accomplish in
24 court?
25 MR. MESEREAU: Objection. Leading;
26 foundation; relevance; vague; and calls for improper
27 opinion.
28 THE COURT: The objection to What did you 7985

1 accomplish...? is sustained as vague. That question
2 is vague.
3 Q. BY MR. ZONEN: All right. Were you able to
4 get a ruling in regards to your custody of your
5 children?
6 MR. MESEREAU: Objection; relevance; motion
7 to exclude.
8 THE COURT: Overruled.
9 Q. BY MR. ZONEN: Go ahead.
10 A. Not regards to custody, but my parental
11 rights were reinstated.
12 Q. At this time you have parental rights again,
13 is that right?
14 A. Yes, I do.
15 Q. Have you seen your children?
16 A. No, I have not.
17 Q. Are you still in court making an effort to
18 do so?
19 A. Very much so. Actively.
20 Q. Have you ever seen yourself on television or
21 any part of that interview that was conducted at Mr.
22 Schaffel's house?
23 A. Yes.
24 Q. Where did you see it?
25 A. I reviewed it last night. I hadn't seen it.
26 I didn't watch it when it was on television, so I
27 saw a video last evening.
28 Q. All right. That was the same video that you 7986

had reviewed once previously?
A. Yes.
Q. But on the occasion last night, you viewed it with greater detail?
A. Yes.
Q. Did you ever see the Maury Povich film that was featured at a later time?
A. I don't remember watching it.
Q. Did you ever receive any money for your participation --
A. No.
Q. -- in this interview?
A. No.
Q. What was your motivation to participate in this interview?
A. To see my children.
MR. ZONEN: Thank you. I have no further questions.
THE COURT: Cross-examine?
MR. MESEREAU: Your Honor, we'd like to renew our motion to exclude testimony into these areas.
THE COURT: I'll give you an indicated, subject to full argument, but at this point I would probably not grant that motion.
THE WITNESS: Good morning, Mr. Mesereau.
//
// 7987

1 CROSS-EXAMINATION
2 BY MR. MESEREAU:
3 Q. Good morning, Ms. Rowe.
4 We've never spoken before, correct?
5 A. No, we have not.
6 Q. Okay.
7 A. I'm Debbie.
8 (Laughter.)
9 Q. The prosecutor asked you some questions
10 about your, for lack of a better word, current
11 dispute with Michael Jackson in Family Law Court,
12 correct?
13 A. I wouldn't call it a dispute, but if that's
14 the legal term, okay.
15 Q. Well, the prosecutor asked you about whether
16 you obtained rights or not - okay? - and I believe
17 you said you have obtained parental rights but not
18 custody rights; is that true?
19 A. I corrected him, and said that my parental
20 rights had been reinstated --
21 Q. Okay.
22 A. -- when he mentioned custody.
23 Q. Okay. Okay. Now, when did you first meet
24 Mr. Schaffel?
25 A. When Mr. Jackson asked me to do the
26 interview.
27 Q. Okay. And did you first meet him at the
28 interview? 7988

A. Yes. Personally -- I had spoken to him on the phone. But personally, yes.
Q. And I gather you developed some type of friendship with him; is that true?
A. I wouldn't call it a friendship. More of an acquaintance. More than an acquaintanceship, but not a friendship.
Q. And you were calling him approximately every week; is that true?
A. For about three months, yes.
Q. Okay. And at some point you were in contact with the Santa Barbara sheriffs about this case, correct?
A. They had called me, yes. And I did not return the first call.
Q. And eventually, you developed somewhat of a dialogue with Santa Barbara sheriffs about this case, right?
A. When they caught me on my cell phone on my way home from Palm Springs, yes, the number they got from Marc Schaffel.
Q. And you agreed to make what you called some pretext phone calls for the sheriffs, correct?
A. Correct.
Q. And a pretext phone call means basically you agreed to work with the sheriffs, telephone people and talk to them while the sheriffs were recording those calls; is that correct? 7989

A. Correct.
Q. And the idea was that the people you would call would not know they were being recorded, right?
A. Correct.
Q. Only you and the sheriffs would know there were recordings, right?
A. Correct.
Q. Now, how many of these pretext phone calls do you think you made with or for the sheriffs?
A. I think there were a total of four to six. I'm not sure.
Q. And who were those pretext phone calls with?
A. Marc Schaffel. Ian Drew. And I think I may have tried to do one with Dieter.
Q. Were you able to do that one?
A. I don't remember.
Q. Okay. So the only people you recall actually speaking with when they didn't know the call was being recorded are Schaffel and Drew; is that right?
A. And Dieter, if I did one with him, he wouldn't have known.
Q. Now, Schaffel and Drew were there when you were interviewed?
A. Yes, they were.
Q. And when you arrived for the interview had you ever spoken to Mr. Drew before?
A. No, I had not. 7990

Q. Did you meet him for the first time at the interview?
A. Yes, I did.
Q. So you met Ian Drew for the first time at Marc Schaffel's home, right?
A. Correct.
Q. And after you met him, did you develop an understanding as to whether or not Mr. Drew would have a role in your interview?
A. I was told he was the one that would be doing the interviewing.
Q. And did he, in fact, do that?
A. Yes, he did.
Q. Okay. And is he the one that had the list of questions you've described?
A. Yes, he did.
Q. And I believe you said you thought there were about 105 questions, right?
A. He told me there were 105.
Q. Mr. Drew told you that?
A. Yes, he did.
Q. Did he ever show you the list of questions?
A. He offered to.
Q. And you refused, right?
A. Correct.
Q. You refused because you wanted to give a spontaneous type of response to whatever he asked you, right? 7991

A. Correct.
Q. Okay. And I think it's fair to say that your responses were very favorable about Michael Jackson, right?
A. Yes.
Q. You answered questions for approximately nine hours; is that true?
A. Yes. It was a very long day.
Q. And you were asked all sorts of questions about what kind of person Mr. Jackson was, right?
A. Yes.
Q. You were asked about what kind of a father he was --
A. Yes.
Q. -- right?
You were asked whether or not he was a good family person?
A. Yes.
Q. You were asked about whether he was a good friend of yours, right?
A. Yes.
Q. And you, throughout that nine-hour period, were very positive about Michael Jackson, right?
A. Yes.
Q. And when you got there for the interview, your understanding was you were going there to help do a very positive, favorable piece about Michael, right? 7992

A. Correct.
Q. And your understanding was that one of the purposes of this interview was to counteract the negative stuff that appeared in the Bashir documentary, right?
A. I didn't know what the video was. I had never heard of Bashir. It was regarding something that had played in Europe and was going to be played in the United States. I didn't want to see the video. I didn't want to see the transcripts from the video. I didn't want to know anything about it.
Q. Okay. Okay. But you knew there was -- the purpose was to respond to something in the media that had been negative about Michael, right?
A. Negative, twisted, misunderstood, whatever it was.
Q. Okay. And I believe you testified you were more than eager to help Michael in this area, right?
A. Absolutely.
Q. And as far as you're concerned, you did help him, right?
A. I hope I did.
Q. You spoke favorably about him and some of your comments were placed on a T.V. documentary, right?
A. The show that -- whatever it was that aired for it, yeah. I think they said the Povich thing.
Q. And you kept calling Mr. Schaffel for a 7993

1 number of months?
2 A. Yes.
3 Q. And you would see him from time to time,
4 right?
5 A. No, I never saw him. I saw him one time --
6 Q. You had lunch with him one time?
7 A. He set me up. Yes, I had lunch with him one
8 time.
9 Q. Where was that?
10 A. The Ivy.
11 Q. Okay. And you say Schaffel set you up?
12 A. Yeah.
13 Q. And what do you mean by that?
14 A. Apparently there was a meeting going on with
15 Michael and some of his people, and I later found
16 out that Schaffel and Dieter were not included. And
17 so Marc had called me up and said, "Do you want to
18 go to lunch?" And I said, "Sure." I said, "Do you
19 want me to meet you in the valley halfway? Do you
20 want to come over here? I'll pick you up." You
21 know, "What do you want to do?" And he said, "Well,
22 why don't I pick you up." And I said, "Fine. Where
23 are we going to go?" And he said, "The Ivy. Is
24 that okay?" I said, "Sure." I never had any
25 problems at The Ivy before. So we went to The Ivy.
26 Q. And would Schaffel call you from time to
27 time?
28 A. Yes. 7994

Q. Okay. And you have previously commented
that you thought Mr. Schaffel was using Mr. Jackson,
true?
A. Oh, yeah.
Q. You thought he was using him, manipulating
him?
MR. ZONEN: I'm going to object as lack of
foundation. She said she just met him. Also
improper opinion.
THE COURT: Overruled.
Q. BY MR. MESEREAU: You told the sheriffs
that, in your opinion, Marc Schaffel was continually
trying to take advantage of Michael Jackson, true?
A. Correct.
Q. And you thought he was manipulating Michael
Jackson to make lots of money, right?
A. Yes.
Q. Now, you met Dieter at some point, true?
A. Yes.
Q. And when did you meet Dieter?
A. I don't remember if I met him anytime before
The Ivy incident, but I met -- he was with us at
lunch.
Q. Okay. And did you meet Konitzer at some
point?
A. Years ago on tour, when he was doing ?Those
Cool Sunglasses.?
Q. During the period of the interview -- I say 7995

during the period. That's a little bit vague.
Let me withdraw that.
Around the time of the interview, did you
talk to Konitzer at all?
A. I spoke with him when I spoke with Mr.
Jackson to arrange it. And he and Dieter and Marc
had been on the phone. They had been on the phone
to tell me about problems that were going on, yes.
Q. And you've also made statements to the
sheriffs that you thought Dieter and Konitzer were
manipulating Michael Jackson, correct?
A. Yes.
Q. You thought Dieter and Konitzer were taking
advantage of Michael Jackson, true?
A. Yes.
Q. And you thought they were trying to
manipulate Michael Jackson to make a lot of money,
right?
A. Yes.
Q. Was it your perception, based upon what you
observed of Schaffel, Dieter and Konitzer, that
those three were working together?
A. Oh, yeah.
Q. You definitely got that impression?
A. Oh, yeah.
Q. Okay. And was it your impression that those
three were working together to find ways to use
Michael Jackson's name so they could profit? 7996

A. Yes.
Q. And at one point you told the sheriffs that you thought Michael Jackson was, in some ways, very removed from what those guys were doing, right?
A. In my past knowledge, he's removed from the handlers, the people who are taking care of business, and they make all the decisions. There's a number of times they don't consult him.
Q. And you thought these three guys, Schaffel, Dieter and Konitzer, were doing just that, didn't you?
A. Very strongly.
Q. Do you recall if around this time you ever tried to warn Michael Jackson about Schaffel, Konitzer and Dieter?
A. I did. I tried to go through my -- my -- I'm sorry, my old boss. And actually, when I did call, I was told that, "Be careful of Marc."
Q. And your old boss was Dr. Klein?
A. Arnold Klein, yes. K-l-e-i-n.
Q. What you're saying, you tried to communicate with Michael, through Dr. Klein, to warn him about what these three characters were doing to Michael?
A. Or to look and see if he was aware of what was going on, if he even knew that I was still trying to see the children.
Q. Okay. And one of the problems you had was that because of the custody issues, you were 7997

supposed to talk through attorneys, right?
A. Correct.
Q. And that created a problem in your ability to communicate with Michael, right?
A. It was difficult, yes.
Q. Okay.
A. It was easy with Mr. Spiegel, Lance Spiegel.
Q. And Mr. Spiegel was a prior lawyer for Mr. Jackson?
A. For family, yes.
Q. Okay. Okay. Now, approximately when did you -- when were you divorced from Mr. Jackson? Was it 1999?
A. Yes.
Q. And at that point you gave up custody of the children?
A. No, not at that point. A year and a half later.
Q. Okay. A year and a half later you gave up custody of the children, and you had the visitation rights that you identified yesterday, right?
A. Right. No, I'm sorry, I misunderstood. I gave up custody at the divorce. I gave him full custody. I had visitation - I'm sorry, I misunderstood - every 45 days.
Q. Approximately how long was your marriage to Mr. Jackson?
A. Three and a half years. 7998

Q. Okay. And I believe you said yesterday
you've stayed his friend, right?
A. I've always considered him my friend.
Q. And you still do, right?
A. Yeah. If he'd talk to me. Sorry.
Q. And without question, the communicating
through lawyers has created problems with --
A. Have you met Mr. Hall? Extreme problems.
Q. Okay. Okay. You're blaming the lawyers for
a lot of that, right?
A. Have you met Mr. Hall? You don't want to.
Q. Okay. All right. How many times did you
meet Dieter personally?
A. Like -- I know for sure the one time.
Q. Did you talk to Dieter on the telephone?
A. Yes.
Q. How many times do you think you talked to
Dieter on the telephone?
A. I think once or twice.
Q. Okay.
A. I don't remember. They weren't eventful
calls.
Q. Did he call you or did you call him?
A. He's -- I know he called me once, and I
believe I called him.
Q. Now, did you learn at some point -- excuse
me. Before I get into that, how many calls do you
think you had with Drew, if any? 7999

A. From when to when?
Q. Oh, around the time of the interview.
A. I met Mr. Drew, he went back to Florida, I didn't see him for about a year. When he came back to Los Angeles, he called me and said he was back in town.
Q. Did you develop a friendship with him?
A. Yeah.
Q. Okay. Now, did you learn at some point that Schaffel was trying to make millions of dollars from the footage of your interview?
A. Yes, I --
MR. ZONEN: I'm going to object as lack of foundation.
THE COURT: Overruled.
THE WITNESS: Yes.
Q. BY MR. MESEREAU: How did you learn that Schaffel was trying to make millions of dollars from the footage of your interview?
A. He told me he was paid for it. He told me that part of the money that was made from it went for a debt that Mr. Jackson had owed him. I later found out that he took -- he told Ronald and Dieter that I wanted $100,000 for doing the interview. And I believe a check was cut - not to me. I wouldn't have taken it - and he kept it.
Q. And how did you learn this information?
A. Some of it was from Ian. Some of it was 8000

from Marc himself.
Q. And at one point Schaffel told you he was going to sue Michael Jackson, didn't he?
A. Yes, he did.
Q. He told you he wanted over a million dollars from Michael Jackson, true?
A. He said Michael owed him a million dollars.
Q. And approximately when did Marc Schaffel tell you he was going to sue Michael Jackson?
A. Six months ago maybe. It may have been longer than that, but I'm not really good with -- if you could give me something to refer to at a time, I could say yes, it happened then. But I think it was about six months ago. And then he told me, about three months ago, that he and his lawyer were filing papers.
Q. And did you ever learn at some point that he had actually sued Michael Jackson?
A. He told me that they'd filed the papers.
Q. Okay. Did Schaffel ever ask you for assistance in his suit against Michael Jackson?
A. No.
Q. Did he ever ask you for information to help him in his business dealings with Michael Jackson?
A. I wouldn't have given it to him.
Q. Okay. Did he ever ask you for help, though?
A. I'm sorry?
Q. Did Schaffel, in your mind, ever ask you to 8001

help him in his business dealings with Mr. Jackson?
A. No. He just bragged about either how he took advantage of an opportunity that I'm sure he knew nothing about or how he was going to do this, that or the other thing to make sure that Michael's career was saved, and things of that nature.
Q. Did Schaffel tell you that he was involved in business matters with Dieter?
A. Yes.
Q. Did Schaffel tell you he was involved in business matters with Konitzer?
A. Yes. In Europe.
Q. Okay. And did you ever get the impression he was not giving Michael Jackson all the information about what he was up to?
A. He was like everybody else around Mr. Jackson. Yeah, he wasn't telling him everything.
Q. Why did you think Schaffel was calling you?
A. To placate me. To say that, Oh, no, I'm working on it. You'll be seeing the kids. Michael's very excited about it. Everything's going to be great. They're still in Florida. You know, As soon as they get home you guys will be together.
Q. And you didn't think he was being truthful, right?
A. Obviously he's full of shit. Sorry. I'm sorry, Your Honor. 8002

Q. You consider Marc Schaffel a liar, don't you?
A. Yes.
Q. You consider Dieter a liar, don't you?
A. Yes.
Q. You consider Konitzer to be a liar, don't you?
A. Yes.
Q. Did Mr. Drew appear to you to want to interact with Schaffel?
MR. ZONEN: I'll object as speculative.
THE COURT: Sustained.
Q. BY MR. MESEREAU: You met Mr. Drew at Schaffel's residence, right?
A. Yes.
Q. And you were introduced to him through Schaffel, right?
A. Yes.
Q. Was it your belief at that time that the two of them had some type of business relationship?
A. Marc told me that Ian was a plant at one of the tabloids to run interference for bad publicity for Michael.
Q. And did you believe that?
A. I didn't know, didn't care, didn't want to be there, but was there for the kids and for him. I -- you know, I wanted to get in and get out. I'm having about as much fun here as I had there. 8003

Q. Was it your understanding that Schaffel was using Ian Drew for a particular purpose?
A. Yes.
Q. And that purpose was to sew publicity that he wanted in the tabloids?
A. To get information out. I don't know if I knew that it was -- if I knew that it was The Globe then that he was the plant for, or if Marc told me shortly thereafter. I think Marc told me at the day, the day that it was, so I knew that I was supposed to expect something coming out in the tabloids.
Q. Right.
A. ?Shockingly? was misinterpreted.
Q. And was it your impression that Schaffel was using Drew to promote Schaffel's business interests?
A. If I'm considered a commodity to Mr. Jackson, then yes.
Q. And as far as you were concerned, Schaffel was using you as a commodity, right?
A. Schaffel was talking out both sides of his mouth, telling me one thing, telling Mr. Jackson something else.
Q. You thought he was using the two of you, didn't you?
A. Yes.
Q. Schaffel bragged to you about the large sums of money he was going to make off of Michael 8004

Jackson, didn't he?
A. Yes, he did.
Q. He bragged about making millions of dollars off of Michael Jackson, didn't he?
A. Yes, he did.
Q. He did that many times, didn't he?
A. Constantly.
Q. Did Dieter brag as well about the millions he was going to make off of Michael Jackson?
A. He wasn't as -- he was more subtle about it and spoke of it as plans for Michael, not actually to take from Michael. So it's a matter of semantics, I'm saying, you know, "I'm going to do it for Michael."
Q. Did Konitzer brag about all the money he was going to make off of Michael Jackson?
A. He had big plans. So -- but they -- I didn't speak with him as often as I spoke with Marc. So those conversations weren't about that with Ronald. It was getting this project started and how they were going to -- how everything was going to be much better.
And then I think I had another conversation with Ronald and Dieter afterwards when they called to say that everything was fine with the video, and "Thank you," and "Things will be fine. We have big plans," and stuff like that. I think there's only two times I spoke with Konitzer. 8005

Q. Did Dieter ever tell you that he and Konitzer were going to take over all of Michael Jackson's affairs?
A. That was their plan, because he'd been mishandled.
Q. Did Dieter ever tell you, "Don't call Michael Jackson. If you have any question about him, talk to me"?
A. I wouldn't be allowed to call him. But if I had any concerns I would -- he said, you know, "Please call me."
Q. Did Schaffel ever show you any written agreements that he said concerned projects he was going to do with the Jackson name?
A. The song. Didn't show me the contract, but that was one thing that he spoke to me about is that they were doing a song for Clear Channel or something.
Q. How many times have you been to Schaffel's home?
A. Once for the interview, and once to pick him up, and I have to remember where we were going. We had to drop a friend of his off in Hollywood someplace. Oh, we went to see Parviz, this guy Parviz. That's what we did.
Q. Okay. And did Schaffel talk to you about an attorney named Mr. Geragos?
A. Uh-huh. 8006

Q. Did he tell you that he had picked Mr. Geragos?
A. I don't know who picked him, but whoever did made a huge mistake. Come on. He pleads out or loses.
Q. Well, in your discussions with the sheriffs, you made negative comments about Mr. Geragos, didn't you?
A. Oh, yeah.
Q. And didn't you also comment that you thought Mr. Geragos was doing --
MR. ZONEN: I'm going to object as hearsay and speculative and irrelevant and beyond the scope of the direct.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you know why you were asked by the sheriffs to record phone conversations with Ian Drew?
MR. ZONEN: Objection; speculative.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did any representative of the sheriff's department ever tell you why they wanted you to record phone conversations with Ian Drew?
A. It was very frustrating working with the sheriff's department. They don't give you any information. That's why I wanted to find out for myself what was going on. 8007

Q. And did you ever record conversations yourself and then just give those recordings to the sheriff?
A. No, that's illegal.
Q. You just did it always with a sheriff involved with you?
A. Yes.
Q. Okay. When did you last talk to Mr. Schaffel?
A. Conversation-conversation? Probably two weeks ago. Probably right before he got the transcripts from the conversation. But he had sent me e-mails that I had not opened. They're still on my account before I came up here.
Q. So a couple of weeks ago you talked to him?
A. Spoke with him, yes.
Q. Okay.
A. He was out of town and wouldn't be back for a couple of weeks. He said there was a family crisis or something. I was hoping his family wasn't ill.
Q. Did you call him?
A. I don't have a cell phone number for him anymore. I lost it. So when he was in town, the conversations were less and less after I had spoken with the sheriff's department and found the information out that I had found and the way I had been treated. And it's a little difficult for me to 8008

be civil to someone that I dislike.
Q. Well, I gather you tried your best to let Mr. Schaffel think he could still communicate with you?
A. Yes.
Q. Up until two weeks ago, right?
A. Yes.
Q. Was that at the request of the sheriffs?
A. No, that was more me. If he did get in touch with me, I did tell them.
Q. And when did you last talk to Ian Drew?
A. He got promoted from his job just after the first of the year. I had dinner with him. There's a group of us that go out on Wednesday nights, and I think it was a month ago that I last talked to him. It was getting close to my uncle's birthday, so we did -- everybody has to come on this Wednesday night to not miss my uncle's birthday.
Q. Your last communication with Dieter was when?
A. Oh, a long time ago. Not within the last year, I don't think. Well, I think The Ivy incident was the last time that I spoke to him. I may -- oh, no, no, no, no. I did try to call him. Sorry. I did try to call him afterwards. And I may have made the one phone call. I don't remember if I made it or not. I haven't seen any of the stuff.
So if there's something there, I'd be happy 8009

1 to look at it and tell you what was done and what
2 was said and what was meant, if you'd like.
3 Q. I'm just asking you.
4 A. Blonde.
5 I don't remember the day, you know. I think
6 I did, but I can't totally swear to it.
7 Q. How about Konitzer. When do you think you
8 last talked to him?
9 A. If I did, it was very shortly after the
10 video.
11 Q. Okay. Would it be accurate to say that your
12 impression was that Schaffel, Konitzer, and Dieter
13 were trying to profit off problems Mr. Jackson had?
14 MR. ZONEN: I'm going to object again as
15 speculative and lack of foundation.
16 THE COURT: Sustained.
17 Q. BY MR. MESEREAU: Did Schaffel tell you that
18 he and Dieter and Konitzer were going to make a lot
19 of money off of the problems that came out of the
20 Bashir documentary?
21 A. They said they were going to fix the problem
22 and bragged that they had made money.
23 MR. ZONEN: Objection; nonresponsive. They
24 said.
25 THE COURT: Overruled.
26 Q. BY MR. MESEREAU: That bothered you, didn't
27 it?
28 A. Yeah. 8010

Q. Did you ever tell Schaffel, "I don't like what you're doing to Michael," or words to that effect?
A. If I had said that, then I wouldn't have been able to find out what he was doing and try to get word to whoever was handling him, "You guys are going to get screwed."
Q. So what you were trying to do was make Schaffel think he could maintain a friendship with you, but what you really wanted to do was get information from him?
A. Yeah. He was out to hurt Michael, in addition would hurt my children.
Q. And did you feel Dieter was trying to hurt Michael and also your children?
A. I think they're opportunistic vultures.
Q. Would that be Dieter, Konitzer and Schaffel?
A. Okay. You can do them alphabetically if you'd like.
Q. You're talking about the three of them, right?
A. All of them.
Q. Who else are you referring to as vultures, besides those three?
A. If it's a personal opinion, does it count?
MR. ZONEN: I'm going to object as beyond the scope of the direct examination and speculative and improper opinion. 8011

THE COURT: Sounds like she's got a long
list. I think I'll sustain the objection.
(Laughter.)
THE WITNESS: Thank you.
Q. BY MR. MESEREAU: Okay. Ms. Rowe, at some
point, did you learn that Santa Barbara sheriffs had
recorded a discussion with you?
A. You did? You did?
No, I didn't know that.
Q. Okay.
A. Damn you guys. You don't share anything.
Q. Did you ever learn that any discussion you
had with the Santa Barbara sheriff was, in fact,
recorded?
A. Well, if -- if you're referring to I was
with them and, yeah, they were recording, so that's
what I thought was recording.
Did you bug my phone?
Q. So at some point you knew they were
recording -- at some point you knew they were
recording a discussion with you --
A. Yes.
Q. -- right?
A. It was a discussion with me with Marc
Schaffel or with Ian Drew.
Q. Okay. How about with you just alone with an
officer?
A. Oh, when I was speaking with an officer, 8012

1 yes, there was a -- an interview that was done.
2 Q. Okay. And where did that interview take
3 place, if you know?
4 A. Calabasas. And I can't give you the name of
5 the place because I don't remember.
6 Q. Do you know what officer that was?
7 A. Officer Steve Robel. Sergeant Steve Robel,
8 actually.
9 Q. Do you know approximately when that
10 interview took place?
11 A. Not off the top of my head, no.
12 Q. Do you recall, at one point, you mentioned
13 the possibility of going to The Enquirer? Do you
14 remember that?
15 A. Me?
16 Q. Yes. I don't know if it was -- you were
17 joking or not, but do you recall saying something
18 like that?
19 A. It would have been totally joking and
20 sarcastic and, Let's see if we can mess with them.
21 Q. Well, you talked about at one point Ms.
22 Arvizo's orchestrating lawsuits. Do you remember
23 that?
24 A. Yeah.
25 Q. And you referred to the J.C. Penney case,
26 correct?
27 A. Probably.
28 Q. Did you do your own research into what Janet 8013

1 Arvizo had done in the J.C. Penney case?
2 A. Just by asking people who had heard
3 something on the news. And I hadn't sat down at the
4 computer and actually properly researched it, no.
5 Q. And you told the officer that you --
6 MR. ZONEN: I'm going to object as hearsay
7 and irrelevant, exceeding the scope of direct.
8 THE COURT: Sustained.
9 Q. BY MR. MESEREAU: When you spoke to the
10 officer in that interview, were you trying to in
11 some way protect Michael from the Arvizos?
12 A. Yes.
13 Q. And that's because you thought the Arvizos
14 were taking advantage of Michael, right?
15 MR. ZONEN: I'm going to object as lack of
16 foundation, exceeding the scope of direct.
17 THE COURT: Sustained.
18 Q. BY MR. MESEREAU: At one point you told
19 Officer Robel that Schaffel had made seven and a
20 half million dollars off your interview. Do you
21 remember that?
22 A. Yes.
23 Q. Did Schaffel tell you that?
24 A. Yes.
25 Q. Did you have any reason not to believe that
26 he'd made seven and a half million?
27 A. I don't know what shows go for. Michael
28 doesn't do interviews, so I'm sure that anything 8014

that was televised or produced was worth a lot of money.
Q. Did Schaffel offer you any of that money?
A. No, and I wouldn't have taken it.
Q. Did you know -- did you have any idea why Schaffel told you he made seven and a half million off your interview?
A. He likes to brag. "Look what I have. Look what I've done."
Q. Did Schaffel tell you any of that money went to Dieter?
A. He didn't. The way he spoke about it was all him.
Q. Did he tell you any of that money went to Konitzer?
A. No, again, all to him.
Q. Was it your understanding that Schaffel, Dieter and Konitzer worked together or -- what was your understanding of their relationship?
A. Michael had a previous relationship with Dieter and Ronald, so if Marc wanted to get in touch with Michael he could go through them, if he couldn't get ahold of him himself. But I think Marc felt that he handled everything in the United States. And that they were involved in the European things and in marketing or something.
Q. Did you think Dieter, Konitzer and Schaffel were competing with each other at all? 8015

A. There was some --
MR. ZONEN: I'm going to object as irrelevant, exceeding the scope of direct.
MR. MESEREAU: Sustained.
Q. Did Schaffel ever tell you he was in any company with Dieter and Konitzer?
MR. ZONEN: I'm going to object as exceeding the scope of direct and hearsay.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember telling the officer who interviewed you, "Michael is very, very easily manipulated especially if he's scared"?
A. Yes.
Q. You were trying to tell the officers that Michael was being taken advantage of by these people, weren't you?
MR. ZONEN: Objection; asked and answered.
THE COURT: Overruled.
You may answer.
THE WITNESS: I'm sorry?
Q. BY MR. MESEREAU: You were trying to tell the officer that you thought Michael was being taken advantage of by these people, right?
A. Yes.
Q. Now, you indicated in your interview you were there for about nine to ten hours, right?
A. Yes.
Q. How much of that time do you think you were 8016

answering questions?
A. It was -- we were on that stupid couch for seven hours, with no breaks except to change film.
Q. And was that you and Mr. Drew?
A. I was on the couch. Drew -- Ian was opposite me, either in a chair -- I think he was in a chair.
Q. Okay. So if you think you know, how many hours of actual interview do you think there was with you?
A. The full seven hours. Except for the -- the time that it took to change videotapes.
Q. Okay.
A. I'm sorry. We didn't break for anything.
Q. And you have before today, I believe you said last night the most recent time, seen a DVD of what purports to be that interview, right?
A. It's not the whole interview.
Q. And is that about two and a half to three hours long, the one you saw?
A. It was about three hours.
Q. And who gave you that DVD to watch?
A. I asked for a copy from Mr. Zonen.
Q. And you watched it last night, right?
A. Yes, I did.
Q. And correct me if I'm wrong, I think what you're saying is that many hours of your interview don't appear in that DVD, right? 8017

A. I don't see how I could have sat there for seven hours and only had three hours on tape. I don't remember any breaks except for when the cameras were -- the film was being changed. I interrupted the interview to tell them the film was -- the camera was blinking, the light. I didn't want to be in the middle of the statement and have to start over again, to tell them that the lights were blinking, to change the film.

I saw cuts in that film, in that tape, that were -- had nothing with me saying, "It's blinking, take it off," so there's -- there is stuff missing from that video.

Q. When Schaffel told you he'd made seven and a half million dollars off your interview, did he ever tell you who he made the money from?

A. I think he said it was FOX Network. And someone in Europe. But I don't remember who it was in Europe.

Q. And was it your understanding that he kept all the footage of your interview?

A. Yes. It was all taken upstairs to a bedroom where they did the editing that night.

Q. Okay. How did you know they did the editing that night?

A. I was there for about an hour when they were doing it.

Q. Were you upstairs in the bedroom while they 8018

were doing it?
A. Yes.
Q. And who is they?
A. Marc was in and out. I don't remember --
I think it was Christian that was doing the editing.
Ian told me he was going to be there all night to
get the video done.
Q. Now, Mr. Jackson wasn't there for any of
that interview, was he?
A. No.
Q. Were you being asked to assist in the
editing upstairs?
A. No, I wanted to see what they were putting
down. I'm a bit of a control freak.
Q. So did they ever object to you being
upstairs and watching what they were doing?
A. No, it just got to be too late and too long
a day and I had to go home. I had school.
Q. But during the hour that you were upstairs
watching the editing, what did you see them do?
A. The very beginning of the interview talking
about Michael, me speaking about Michael and what
kind of a person he is. And the -- I gave them a
list, not a written list, but a verbal list of
things that I wanted included to make sure.
Q. In that interview, what kind of a person did
you say Michael was?
A. Generous. To a fault. Giving and kind. 8019

Q. Anything else do you recall saying?
A. Good father. Great with kids. Put other people ahead of him. Things like that.
Q. If you can, do you remember anything else you said about Michael?
A. He's a brilliant businessman. There's different Michaels. There's, like, my Michael.
Q. Do you want some water?
A. And the Michael that everyone else sees.
Q. And that would be the public Michael?
A. Yes.
Q. That would be Michael the entertainer, right?
A. Michael the entertainer, yeah.
Q. When did you first meet Michael?
A. In the .80s.
Q. And how did you meet Michael?
A. Through my office when I worked with Dr. Klein.
Q. Okay. And what was your position with Dr. Klein at the time?
A. I was an assistant.
Q. And Michael went to Dr. Klein for various treatments, right?
A. Yes.
Q. And do you recall when he first went to Dr. Klein?
A. Yes. The very first day, yes. I was not 8020

his nurse then.
Q. And what was the treatment he was receiving;
do you know? Was it a skin condition he had?
MR. ZONEN: I'm going to object at this
point. The question is, What was the treatment he
was receiving?
MR. MESEREAU: I'll withdraw it. I'll
withdraw it.
THE COURT: All right. It's withdrawn.
Q. BY MR. MESEREAU: You met him in the early
.80s?
A. Yes.
Q. And you continued to know him through the
.90s until you were married, right?
A. Yes.
Q. And how long did you work for Dr. Klein?
A. From .79 to 2001, I think it was, or 2000.
Q. Okay.
A. I don't remember the exact dates.
Q. Okay. Do you recall ever going on tour with
Michael?
A. Uh-huh.
Q. And when did you first go on a tour with
Michael?
A. What was the tour after Bad? Was it the
History tour, or Dangerous?
It was the Dangerous tour, I'm sorry.
MR. ZONEN: I'm going to object to 8021

1 communications between the witness and the defendant
2 and ask that that be stricken.
3 THE WITNESS: Sorry.
4 THE COURT: Stricken.
5 Q. BY MR. MESEREAU: Let me try and ask it
6 again. What was the first tour that you went on
7 with Michael?
8 A. "Dangerous."
9 Q. And approximately when was that?
10 A. I don't remember. That was -- all those
11 tours. And they all just ran together, because it
12 was a long schedule.
13 Q. Okay. Was it in the .80s or .90s; do you
14 know?
15 A. I think it was in the early .90s.
16 Q. Okay. And where did that tour go to?
17 A. I think it started in Bangkok, and went
18 throughout Asia, Japan, Singapore. Then there was a
19 break. And then it went to Europe.
20 I did go to the last concert in Gutenberg, I
21 think on the tour previous to that. Because
22 Gutenberg wasn't on the "Dangerous" tour.
23 Q. And were you traveling with Michael along
24 with his physician?
25 A. Yes.
26 Q. Okay. And you then went on another tour
27 after that?
28 A. Yes. 8022

Q. And what tour was that?
A. "History."
Q. Okay. And approximately when was that?
A. It seemed like it was right after
"Dangerous," within a year or two after "Dangerous."
It could have been a little bit longer than that.
Q. And you were on that tour along with the
physician as well, right?
A. We were married when that was going on.
Q. Okay.
A. So, no. Klein would come every once in a
while, but I was there every three weeks to see
little Michael and Michael and to see how everybody
was, because I was still working. I couldn't more
often than that.
Q. When did you first meet Mr. Sneddon?
A. The day before yesterday. Two days ago.
When did I come up here? I came up here Tuesday.
Today's Thursday. I came up here Tuesday.
Q. I mean, your first time you ever met Mr.
Sneddon was the early .90s, wasn't it?
A. I don't remember. I remember I did a
deposition. I thought it was for a woman. I don't
remember. I don't remember any of that part. I
tend to block out unpleasantries. I don't remember
any of that part. I don't remember if Mr. Sneddon
was there or not.
Q. Okay. 8023

A. I think -- I think I just met him.
Q. Okay. Do you know when you were first contacted about this particular case by anyone associated with the sheriffs or the prosecution?
A. It was -- there was a voice mail on my car phone, which I don't give out because it's stupid to give out a car phone if you're not in the car all the time. And they had gotten it through -- somehow probably through Schaffel, because that's how the tabloids got it. Because Marc Schaffel handed out that phone number, because that was the only one he had, because I had to call release from that line to call his house. So there was a message left, and I did not return the call.
And then on a trip back from Palm Springs, probably eight or nine o'clock at night, it was dark, I'm going to guess it could have been a little bit later, but eight o'clock or 9:00 the phone rang, and I thought it might have been someone -- something wrong with one of my animals or something. And I answered it, and it was Sergeant Robel.
Q. Okay. And do you know approximately when that was?
A. I don't. I'm sorry.
Q. Was it like a year ago?
A. Oh, yeah. Yeah. Yeah.
Q. Now, you said Schaffel was giving information to the tabloids? 8024

A. Yes.
Q. Was he giving information to the tabloids about Michael Jackson, to your knowledge?
A. He was leaking information.
Q. To your knowledge, was he trying to profit from the tabloids with information about Michael Jackson?
A. I don't think monetarily. I think maybe through manipulation, you know, "Maybe I can stop this," or "I can talk to so and so and fix it."
Q. Has it been your belief that Schaffel has been trying to create problems for Michael Jackson so he could profit from them?
MR. ZONEN: Objection. Asked and answered and speculative, lack of foundation.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did Schaffel ever tell you in your conversations that he was going to generate crises around Michael Jackson so he could then find ways to profit?
A. Just this lawsuit. And I don't know the details of the lawsuit.
Q. Did he tell you he intends to make millions from his lawsuit against Michael Jackson?
MR. ZONEN: Objection; asked and answered.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did he tell you whether or not Dieter or Konitzer are still doing business with 8025

him when you last talked to him?
A. When I was speaking with him, he didn't say anything about business.
Q. But he said --
A. He was more concerned about self-preservation at this point.
Q. He said he's still talking to them?
A. I think he is, yes. I think he is. I don't know.
MR. ZONEN: The question is did he say.
THE WITNESS: I don't --
THE COURT: Is that an objection?
MR. ZONEN: That's an objection, nonresponsive.
THE COURT: Sustained. Stricken.
Q. BY MR. MESEREAU: You met with Mr. Zonen last night; is that correct?
A. Yes.
Q. Did you have a long meeting with him?
A. I watched the video there. And I spoke with him for maybe 20, 25 minutes.
Q. Did Mr. Zonen talk to you about what he was going to ask you today?
A. No.
Q. He just asked you pretty much to watch the video?
A. Yes.
Q. And where did this meeting take place? 8026

Don't give me an address, if it's where you were --
A. Oh. It's in an office that they had.
Q. That's the District Attorney's Office?
A. Yes.
Q. Okay.
A. I don't know the address. So I'm lost.
Q. When was the last time any representative of
the sheriff's office asked you to record somebody?
A. I want to say last year.
THE COURT: Let's take our break.
MR. MESEREAU: Yes, Your Honor.
(Recess taken.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 7975 through 8027 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on April 28, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, April 28, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 28, 2005

8:38 A.M.

(PAGES 8029 THROUGH 8156)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 8029

APPEARANCES OF COUNSEL:

For Plaintiff: THOMAS W. SNEDDON, JR.,
District Attorney -and-
RONALD J. ZONEN, Sr. Deputy District Attorney
-and- GORDON AUCHINCLOSS,
Sr. Deputy District Attorney -and-
MAG NICOLA, Sr. Deputy District Attorney
1112 Santa Barbara Street Santa Barbara, California 93101

For Defendant: COLLINS, MESEREAU, REDDOCK & YU
BY: THOMAS A. MESEREAU, JR., ESQ. -and-
SUSAN C. YU, ESQ. 1875 Century Park East, Suite 700
Los Angeles, California 90067
-and-
SANGER & SWYSEN BY: ROBERT M. SANGER, ESQ.
233 East Carrillo Street, Suite C Santa Barbara, California 93101

1 I N D E X
2
3 Note: Mr. Sneddon is listed as ?SN? on index.
4 Mr. Zonen is listed as ?Z? on index. Mr. Auchincloss is listed as ?A? on index.
5 Mr. Nicola is listed as ?N? on index. Mr. Mesereau is listed as ?M? on index.
6 Ms. Yu is listed as ?Y? on index. Mr. Sanger is listed as ?SA? on index.
7
8
9 PLAINTIFF'S VOIR
10 WITNESSES DIRECT CROSS REDIRECT RECROSS DIRE
11 JACKSON,
12 Deborah Rowe 8033-Z
13 FINSILVER, Iris Joan 8052-Z
14 DIETZ,
15 Andrew R. 8058-SN 8100-SA 8109-SN 8095-SA
16 SCHWARTZ,
17 Jeffrey 8110-N 8121-SA
18 DANKO, Crystalee 8131-N
19 SIMMONS,
20 Jennifer 8141-N
21 CORRAL, JR. Joe J. 8147-N
22
23
24
25
26
27
28 8031

1 E X H I B I T S
2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
3
4 223-249 Records of Air Apparent, Inc. 8061 8066
5 450 Nextel records 8141 8146
6 455 Sprint records 8132 8137
7 457 Verizon California
8 records 8147 8151
9 458 Talk America records 8111 8112
10 459 Verizon New York records 8147
11 852 Air Apparent, Inc.
12 Itinerary/Invoice Record 8066 8068
13 853 Five-page Air Apparent, Inc., record 8067 8068
14 854 Three-page Client Summary,
15 February 5 through February 12, 2003 8080 8097
16
17 855 Thirteen-page Client Summary, February 12
18 through March 31, 2003 8080 8097
19
20
21
22
23
24
25
26
27
28 8032

1 THE COURT: Counsel?
2 MR. MESEREAU: Thank you, Your Honor.
3 Your Honor, we have no further questions,
4 and we withdraw our motion.
5 THE WITNESS: Thank you.
6
7 REDIRECT EXAMINATION
8 BY MR. ZONEN:
9 Q. How many conversations did you have with
10 Ronald Konitzer?
11 A. One or two.
12 Q. Over the telephone?
13 A. Yes.
14 Q. And the length of each of those
15 conversations?
16 A. Minutes.
17 Q. Minutes? Did you ever see Ronald Konitzer
18 interact with Michael Jackson?
19 A. Not since I had met him in Europe on tour
20 years before.
21 Q. So you're talking about conversations that
22 may have taken place when, in the early .90s?
23 A. Yes.
24 Q. All right. Since the early .90s, have you
25 seen him interact with Mr. Konitzer?
26 A. Physically, no. Just on the phone.
27 Q. Did you hear him interact with him on the
28 telephone, in other words, conversations where you 8033

were present?
A. When Mr. Schaffel was setting up the interview --
Q. Yes.
A. -- Ronald was there with Michael.
Q. Was that the only conversation that you had, were party to --
A. No.
Q. -- involving Mr. Jackson and Mr. Konitzer?
A. No. There was one or two after that. Just -- after the interview, thanking me, saying everything was going to be fine, and I don't recall if there was another one after that.
Q. Was Mr. Jackson involved in those conversations?
A. No, he was not.
Q. That was just a conversation with you and Mr. Konitzer?
A. No, Marc would have been on the phone. He did not have my phone number.
Q. All right. So it was a conversation involving you, Marc Schaffel and Ronald Konitzer?
A. Yes.
Q. And the subject of that conversations was what?
A. Superficial. About the video.
Q. Nothing about Mr. Jackson's business affairs? 8034

A. No. Not with Michael on the phone, no.
Q. Did any of them talk to you about issues dealing with the Martin Bashir video?
A. Before or after the interview?
Q. After the interview.
A. When the interview aired, it did, and they said that the interview that I had done would help deflect and do damage control.
Q. Did they say that to you more than once?
A. Yes.
Q. Did Mr. Konitzer say positive things to you about your involvement in this interview?
A. About my possible involvement?
Q. No.
A. I'm sorry.
Q. Did he say positive things to you about your involvement?
A. Yeah. Yeah.
Q. Did he say that you were helpful?
A. Yeah.
Q. Did you believe that you were?
A. Yeah.
Q. Was that your intent?
A. Yes.
Q. All right. Do you still like Michael Jackson?
A. I have very strong memories and feelings for the Michael that I have known but haven't seen since 8035

1999. But those are based on my feelings. We haven't spoken.
Q. All right. Is it the case that the sum total of your communication with Mr. Jackson since 1999, six years ago, was a two-and-a-half-minute conversation that you described?
A. Correct.
Q. And that was a conversation where he asked you to participate in this video; is that correct?
A. To work with Ronald, Dieter, and Marc.
Q. Is it clear to you that he understood that you wanted to see your children?
A. Yes.
Q. All right. Did he ever call you to say that --
A. No.
Q. -- or to invite you up to come see the children?
A. No, he didn't.
Q. Who do you believe is responsible for your not being able to see the children?
MR. MESEREAU: Objection. Relevance; foundation.
THE COURT: Overruled.
Q. BY MR. ZONEN: You can answer the question.
A. He's their father. Ultimately it's his decision. I don't want to believe that. I want to believe that it's other people. I want to believe 8036

it's Marc Schaffel threatening him that I want to take the children, things like that.
Q. How long has Marc Schaffel been involved with Michael Jackson? When do you believe was the end of Mr. Schaffel's involvement with Michael Jackson?
A. I think The Ivy incident was probably what tore it.
Q. All right.
A. Marc told me he was on the outs and wanted to do what he could to get back in.
Q. When did he file the lawsuit against Michael Jackson?
A. I don't know how long it takes to actually get to court when you file a paper, or whatever, but he had talked about it about three months ago.
Q. All right.
A. So I don't know if he was filing the papers then, if he was getting ready to file the papers.
Q. All right. But your understanding is that Marc Schaffel hasn't had anything to do with Michael Jackson for a number of months now; is that correct?
A. Correct.
Q. All right. And yet you're still being denied access to your children?
MR. MESEREAU: Objection. Leading; relevance; foundation.
THE COURT: Overruled. 8037

Q. BY MR. ZONEN: Is that true?
A. We're -- yes, yes.
Q. All right. Well, then who do you think is responsible for that, if it's not Marc Schaffel?
MR. MESEREAU: Objection. Relevance; foundation; leading; and opinion.
THE COURT: It's argumentative. Sustained.
Q. BY MR. ZONEN: Tell us, in your opinion, who is responsible at this time for your not being able to have access to your children?
MR. MESEREAU: Same objection.
THE COURT: Overruled.
THE WITNESS: When I was first promised to see the kids, when Michael -- he called me, for me to show up when they were at that age of three and four, four and five, I could be introduced as a friend, as a friend of daddy's. And you don't confuse a child by saying, "Oh, this is your mother."
I can't do that now. They're too old. To do something like that, it would be too traumatic. I would not walk in and say, "Hey, I'm your mom," you know, "Want to go out?"
It's -- it's so much more complicated than that when reintroducing yourself to children who may or may not remember me.
Q. BY MR. ZONEN: Are you saying that you believe that Mr. Jackson is amenable to your seeing 8038

your children; it's just a question of how?
MR. MESEREAU: Objection. Leading;
argumentative; no foundation.
MR. ZONEN: It's impeachment, Your Honor, as
to the leading issue.
MR. MESEREAU: Improper opinion.
THE COURT: The objection is overruled.
Do you want the question read back?
THE WITNESS: No. Thank you.
I'm hoping in my heart that he is. But we
haven't spoken, so I don't know. I get to deal with
Abrams and Hall.
Q. BY MR. ZONEN: Why do you believe he hasn't
spoken with you?
MR. MESEREAU: Objection. Leading;
argumentative; foundation; relevance.
THE COURT: Overruled.
THE WITNESS: I don't know if he is
concerned about this case. I don't know what his
concerns are, if he thinks I'm going to take the
children from him. I don't know. I haven't spoken
to him. I don't know.
Q. BY MR. ZONEN: How many conversations have
you had with Dieter Weizner?
A. The last conversation I had with Dieter I
think was at The Ivy.
Q. And how many conversations prior to that?
A. One or two. 8039

Q. You said that you were set up, is that correct, at that --
A. In my opinion --
Q. -- lunch?
A. -- yes.
Q. What does that mean, ?set up??
A. You don't go to lunch and then call the paparazzi to come and take a picture of you while you're trying to have a salad, and then someone runs across the street and almost gets hit by a car because they're taking my picture.
Q. You didn't mention that in cross-examination when you said that to Mr. Mesereau.
A. Oh, sorry. I thought --
Q. Is that what it was that you believe to be the set-up?
A. Yes, because Michael was having a meeting with his -- some group of people at the Beverly Hills Hotel or something. And Marc and Dieter were not included. So they were going to show him.
Q. All right. What does the presence of paparazzi have to do with that?
A. I'm assuming because Marc Schaffel could not get to Michael, that if someone were to see it on T.V. or something, then it would be detrimental to him.
Q. How long has Michael Jackson had an association with Ronald Konitzer? 8040

A. I know that he knew him in the .90s doing marketing and things like that in Europe. I don't know, I haven't -- I haven't had any involvement with Michael since .99, so I don't know.
Q. All right. You offered the opinion that you believe that this group of people are taking advantage of him.
A. Yes.
Q. Have you ever actually seen them interact with him?
A. No.
Q. Are you aware of any of the transactions that have taken place between Mr. Konitzer and Michael Jackson?
A. Just when Konitzer was on the phone with Michael to tell me that it was okay to work with these people to do what needed to be done for the project.
Q. And would you consider that to be a conversation for Mr. Jackson's benefit?
MR. MESEREAU: Objection. Foundation; vague.
MR. ZONEN: It's her opinion.
THE COURT: Sustained.
Q. BY MR. ZONEN: The conversation that you had over the telephone with Mr. Konitzer involving your involvement in a rebuttal was supposed to defuse a difficult situation that Mr. Jackson was in; is that 8041

1 correct?
2 A. That was my understanding.
3 Q. So that was for his benefit, for Mr.
4 Jackson's benefit?
5 A. Correct.
6 MR. MESEREAU: Objection; argumentative.
7 Same objection. Foundation; opinion.
8 THE COURT: Overruled.
9 THE WITNESS: Correct.
10 Q. BY MR. ZONEN: And that's correct.
11 How many conversations have you been party
12 to between Mr. Konitzer and Mr. Jackson?
13 A. Just the one.
14 Q. That was the only one?
15 A. Yes.
16 Q. So you don't really know what extent of
17 communication they had between each other; is that
18 correct?
19 MR. MESEREAU: Objection. Assumes facts not
20 in evidence; foundation; move to strike.
21 THE COURT: Overruled.
22 THE WITNESS: Only what I was told.
23 Q. BY MR. ZONEN: Ahh. And told by whom?
24 A. By Marc.
25 Q. Only Marc; is that right?
26 A. And Dieter.
27 Q. Okay. Marc is the person you believe to be
28 an inveterate liar; is that correct? 8042

A. Yes.
Q. He told you that he was making seven and a half million dollars off of this production, the Maury Povich production?
A. Correct.
MR. MESEREAU: Objection; assumes facts not in evidence.
THE COURT: Overruled.
Q. BY MR. ZONEN: Is that correct?
A. Yes, that's what I was told.
Q. Did you believe he was profiting from that production?
A. Yes.
Q. Did you understand that production to be a production for profit?
A. I didn't care.
Q. But did you understand it to be a production for profit?
A. If I assumed that, you know, if you're going to make it and sell it, yes, it's for profit.
Q. And you understood it was being sold?
A. Yes.
Q. You understood it was being marketed?
A. Yes.
Q. And that, in fact, was Marc Schaffel's job, was to market that film?
A. Yes.
Q. And your involvement in it was to make it 8043

more marketable; is that true?
A. Correct.
Q. Do you think it was inappropriate for Marc Schaffel to make a profit off that film?
MR. MESEREAU: Objection. Improper opinion; calls for speculation; foundation.
THE COURT: Sustained.
Q. BY MR. ZONEN: In your opinion, should he have made some profit off that film?
MR. MESEREAU: Same objection.
THE COURT: Sustained.
Q. BY MR. ZONEN: Do you have any reason to brief that Michael Jackson didn't receive any profit off that film?
MR. MESEREAU: Same objection.
THE COURT: Sustained.
Q. BY MR. ZONEN: Are you aware that Michael Jackson was given over a million dollars in cash by Marc Schaffel during that period of time?
MR. MESEREAU: Objection. Assumes facts not in evidence; foundation; move to strike.
THE COURT: Sustained.
Q. BY MR. ZONEN: Now, I'd asked you your number of conversations with Dieter Weizner. Is Weizner somebody you knew back in the early .90s as well?
A. He said I'd met him. I don't remember. I met a lot of people when Michael was on tour. 8044

There was a ton of people involved.
Q. Did you have a face-to-face conversation with Dieter Weizner in 2003?
A. For the inter -- at The Ivy. Not for the interview or anything.
Q. And The Ivy was just the lunch that you had with them?
A. Yes.
Q. Did you stay and actually have a lunch?
A. I was -- yeah, I was a wreck. They moved us inside until it was completely out of control, and it had -- I had to leave.
Q. So you didn't really have a conversation with him?
A. We did talk.
Q. About what?
A. About how they were going to -- that the people that were on the other side of town were inching them out and not including them, and that this would show them and get their attention because I was with -- with them.
Q. All right. Now, this was in 2004; is that right?
A. I think -- I don't remember the date.
Q. This is well after the Indictment was returned against Mr. Jackson; is that correct?
A. No. It was -- I believe it was before.
Q. Were you -- 8045

A. I don't -- I don't remember the date.
Q. Were you already involved in having given information to law enforcement regarding this investigation?
A. I think so. I don't remember.
Q. You described Mr. Jackson as a brilliant businessman.
A. Yes.
Q. Is that a true statement?
A. In my opinion, yes.
Q. During the years that you knew him, you understood him to be very talented at the business end of his career; is that correct?
A. I thought so.
Q. He was successful in making an awful lot of money during the years you knew him; is that right?
A. Yes.
Q. And he knew Mr. Konitzer and Mr. Weizner for over ten years, didn't he?
A. I don't know how long they'd known each other. I don't remember when they met. I remember meeting -- like I said, I remember meeting Ronald when he was showing marketing things to Michael. I don't even remember what city we were in.
Q. But it was the early .90s, was it not?
A. Yeah. Yeah. It would have had to have been. So, yeah, I guess that would be ten years.
Q. Would the same be true as to Dieter Weizner? 8046

A. I don't remember meeting Dieter. Even though he said I did, I don't remember.
Q. So when did you understand Mr. Weizner's involvement with Michael Jackson to begin?
A. The man carried six cell phones. I wasn't quite sure what -- I wasn't sure if he was a liaison, if he was doing the European marketing and working with Marc Schaffel doing the American things. All I knew is that the three of them were --
Q. Who are we talking about right now?
A. Ronald, Marc and Dieter were involved in -- directly in the video and saving Michael after this documentary came out.
Q. All right. Is there anything that you saw that was put out to any of the tabloids or any of the newspapers by any of the three of them that you felt was negative to Michael Jackson?
A. What do you mean?
Q. Well, you talked about Mr. Schaffel giving information out to the tabloids; is that right?
A. Yes, but he did it to -- he said he could run interference. That was why he had Ian Drew as a plant at The Globe, to run interference, because -- I didn't know this, but I guess the magazines are all owned by the same company and they shuffle the stories around.
Q. What kind of interference? 8047

A. To keep bad stories or gossip, or whatever,
out, so he would release good information to someone
he thought was more reputable.
Q. Bad stories about whom?
A. Michael.
Q. All right. So the work that they were doing
was trying to boost his reputation?
A. Correct.
Q. And improve his reputation?
A. Correct.
Q. Not destroy him.
A. After this documentary, correct.
Q. All right. Was it your understanding that
the more money Michael Jackson was capable of making
translated to the more money those three men were
capable of making?
MR. MESEREAU: Objection. Foundation;
relevance.
THE COURT: Sustained.
Q. BY MR. ZONEN: Did you know Frank Cascio?
A. Yes.
Q. How did you know Frank Cascio?
A. I met his family years ago.
Q. Years ago?
A. Yeah.
Q. How old was Frank Cascio when you met his
family?
A. It was just after little Michael had been 8048

born. He must have been middle teens maybe. He was the oldest of the boys.
Q. You didn't know him as a person who was involved in Mr. Jackson's relationships or business affairs?
A. No.
Q. He was a teenager?
A. This is years ago. We're talking --
Q. Yes.
A. Yeah. No, no, no.
Q. Did he visit Mr. Jackson regularly?
A. The family came up -- I knew him with the family, when Mr. and Mrs. Cascio were there with the kids, with the boys.
Q. Did you understand Frank Cascio's relationship with Michael Jackson to be very close?
A. He was close with all the Cascios.
Q. Did you know Vinnie Amen?
A. No.
Q. You made the statement, "If I'm considered a commodity of Mr. Jackson." What did that mean?
MR. MESEREAU: Objection. Misstates the evidence. She was talking about Mr. Schaffel.
THE COURT: Overruled.
You may answer.
Q. BY MR. ZONEN: Do you remember making that statement?
A. Yes. 8049

Q. What did that mean?
A. I was sellable.
Q. Do you mean in conjunction with your giving this interview?
A. Yeah. I don't do interviews.
Q. Did you ever give an interview for the press?
A. I did a couple of things with Chuck Henry in the late .70s. He was a newscaster for NBC in Los Angeles.
Q. You've given no interviews other than that?
A. Not personally, no.
Q. Did you believe that made you more marketable?
A. To do the interviews?
Q. Yes.
A. I don't want to be marketable.
Q. I didn't ask that. I said, do you believe that it made you more marketable; in other words, for somebody else?
A. Yeah.
Q. Do you believe that you were asked to participate in this interview because it would make the film more marketable?
MR. MESEREAU: Objection. Calls for speculation; foundation.
MR. ZONEN: It's her opinion.
MR. MESEREAU: And improper opinion. 8050

THE COURT: Sustained for speculation.
Q. BY MR. ZONEN: Did any of the three of them, Konitzer or Weizner or Schaffel, talk to you about your participation in this video in terms of mentioning that it would make the film more marketable?
A. Yes, and that it would help Michael.
Q. Help Michael Jackson in terms of its marketability?
A. Of the damage control from the Bashir document -- documentary thing, show.
MR. ZONEN: Thank you. I have no further questions.
MR. MESEREAU: No further questions, Your Honor.
THE COURT: All right. Thank you. You may step down.
THE WITNESS: Thank you, Judge.
THE COURT: Call your next witness.
MR. ZONEN: Iris Finsilver, please. Your Honor, I'm sorry, I believe this may take a moment. I believe she's upstairs.
THE COURT: When you get to the witness stand, please remain standing.
BAILIFF CORTEZ: Remain standing.
THE COURT: Please remain standing.
THE WITNESS: Oh, yes, Your Honor. I'm sorry. 8051

1 THE COURT: Face the clerk and raise your
2 right hand.
3
4 IRIS JOAN FINSILVER
5 Having been sworn, testified as follows:
6
7 THE WITNESS: I do.
8 THE CLERK: Please be seated. State and
9 spell your name for the record.
10 THE WITNESS: Iris Joan Finsilver. I-r-i-s.
11 J-o-a-n. F-i-n-s-i-l, V as in □Victor,□ e-r.
12 THE CLERK: Thank you.
13 THE WITNESS: Thank you.
14
15 DIRECT EXAMINATION
16 BY MR. ZONEN:
17 Q. Miss Finsilver, good morning.
18 A. Good morning.
19 Q. You're not used to being on that side of the
20 witness stand, are you?
21 A. No, I'm not.
22 Q. What is your occupation?
23 A. I'm a lawyer.
24 Q. How long have you been an attorney?
25 A. I was admitted to the bar of Michigan in or
26 about 1986.
27 Q. In then California?
28 A. In California, I believe I was admitted in 8052

1989.
Q. What kind of a practice do you have?
A. Family law.
Q. And family law means what?
A. Divorce, custody, child custody, support, family matters.
Q. All right. Is Debbie Rowe Jackson your client?
A. Yes.
Q. How long has she been your client?
A. Since in or about 1996.
Q. Did you represent her in her divorce with Michael Jackson?
A. Yes, sir.
Q. Do you continue to represent her?
A. Yes, sir.
Q. Were you present at the filming of an interview that took place in Calabasas at the residence of Marc Schaffel back in February of 2003?
A. Yes, sir.
Q. Prior to doing that, had you engaged in any legal work to be able to allow Deborah Rowe to participate in that interview?
A. Yes, sir.
Q. What was the purpose of that?
A. It was -- she had signed a confidentiality agreement, and in order for her to speak of Mr. Jackson, she would have to be released from the 8053

confidentiality agreement for the express purpose of speaking about Mr. Jackson.
Q. Did you draft that waiver of confidentiality?
A. I think it was a mutual effort between Mr. Jackson's lawyers and myself. It was in fact, yes.
Q. But it was one that was drafted as a document?
A. Yes, sir.
Q. And was it one that required signatures?
A. Yes, sir.
Q. Whose signatures were required on that document?
A. Mr. Jackson's and Deborah Rowe Jackson's.
Q. And did Debbie Rowe sign the document?
A. Yes, sir.
Q. And to your knowledge, did Mr. Jackson sign the document?
A. Yes, sir.
Q. And following the signing of that document, did Miss Rowe participate in an interview?
A. Yes, sir.
Q. Were you present during the interview?
A. Yes, I was.
Q. Were you present during the entirety of the interview?
A. Yes.
Q. Approximately how long did that interview 8054

1 last?
2 A. Well, I can tell you the whole day was about
3 nine hours. And I can't exactly tell you how long
4 the filming took place. It was many hours of
5 filming throughout a nine-hour day.
6 Q. All right. Was there a man by the name of
7 Marc Schaffel present?
8 A. Yes, sir.
9 Q. Did you know Marc Schaffel prior to that
10 day?
11 A. I had never met him prior to that day.
12 Q. Did you know his name prior to that day?
13 A. I believe I did.
14 Q. In what context?
15 A. In that he would be --
16 MR. MESEREAU: Objection. Relevance and
17 foundation.
18 THE COURT: Overruled.
19 Q. BY MR. ZONEN: Go ahead.
20 THE COURT: Go ahead.
21 Q. BY MR. ZONEN: Oh, you don't need to be told
22 that, do you?
23 A. In that he would be part of the interview
24 that was going to be taking place, so that's how I
25 heard of his name. And I knew that we were going to
26 be going to Marc Schaffel's home, where the filming
27 was conducted.
28 Q. And was that where it was conducted, at his 8055

home?
A. Yes, sir.
Q. Was he present during the interview?
A. Yes, sir.
Q. Was he present during the entirety of the interview?
A. Yes.
Q. Did he periodically make comments with regards to the answers or questions that were given?
MR. MESEREAU: Objection; leading.
THE COURT: Overruled.
You may answer.
THE WITNESS: Thank you.
Yes.
Q. BY MR. ZONEN: Did you hear any representations from Mr. Schaffel at any time during the course of the filming that dealt specifically with the subject of Ms. Rowe's children?
A. Yes.
MR. MESEREAU: Objection; leading.
THE COURT: Overruled. The answer was, Yes. Next question.
Q. BY MR. ZONEN: What were those representations?
MR. MESEREAU: Objection; hearsay.
MR. ZONEN: Relevant for prior stated purposes.
THE COURT: Overruled. 8056

You may answer.
Q. BY MR. ZONEN: Go ahead.
A. I heard him, in connection with her answers, when she would give a favorable answer, "Oh, Michael will be very, very pleased about this. You're really helping him out of a big jam, and you'll go to Neverland and you'll see Michael and your kids."
Q. On how many occasions did he give an answer of that nature?
A. I recall two specific times. There may have been more. I just --
MR. MESEREAU: Objection; move to strike.
THE COURT: The last sentence is stricken.
MR. ZONEN: Thank you. I have no further questions.
THE COURT: Mr. Mesereau?
MR. MESEREAU: No examination, Your Honor.
THE COURT: Thank you. You may step down.
THE WITNESS: Thank you, Your Honor.
THE COURT: Call your next witness.
MR. SNEDDON: Your Honor, I want to get an exhibit book.
THE COURT: All right.
MR. SNEDDON: I was going to ask permission to go between there, but I'll....
MR. ZONEN: I apologize, Your Honor. I thought it would be a little faster than we expected, but we are moving ahead of schedule. 8057

THE COURT: That's fine.
MR. SNEDDON: Call Andrew Dietz, Your Honor.
THE COURT: Come forward, please.
When you get to the witness stand, remain
standing. Face the clerk and raise your right hand.

ANDREW R. DIETZ
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and
spell your name for the record.
THE WITNESS: Andrew R. Dietz, D-i-e-t-z.
THE CLERK: Thank you.

DIRECT EXAMINATION
BY MR. SNEDDON:
Q. Good morning.
A. Good morning.
Q. Mr. Dietz, you have a business -- you're
going to have to lean into that mike. Okay?
A. Good morning.
Q. Good morning. Do you have a business?
A. Yes, I do.
Q. And what is the name of your business?
A. Air Apparent, Inc.
Q. And where is your business located?
A. Los Angeles, California. 8058

Q. And what is the nature of the business?
A. It's a retail travel agency.
Q. And basically could you describe for us what that means? What's a retail travel agency do?
A. We arrange transportation.
Q. And any other services you provide in addition to transportation?
A. Not that I can think of.
Q. In connection with that transportation, you make reservations at hotels and things like that?
A. Yes. Certainly.
Q. Now, in that particular business, what is your position?
A. I'm the president.
Q. And how long have you been associated with that business?
A. Since 1980.
Q. Now, is one of your clients MJJ Productions?
A. Yes.
Q. And how long has MJJ Productions been a client of yours?
A. I believe around 15 years.
Q. And what is the nature of the business services that you provide to MJJ Productions?
A. We arrange hotel, air transportation, commercial air transportation, car reservations for many of the people that he employs and engages in work for himself. 8059

Q. What is the -- can you describe to the jury what the business relationship is in terms of how the services, once they're provided, how they're invoiced and paid and how that works?
A. A call -- I think if you're asking how is business conducted --
Q. Yes.
A. -- a call's typically made and a reservation is usually made, a ticket is usually generated. It's then invoiced and sent to the client.
Q. Now, at the time that the ticket is made, do you have to -- do you have to pay for the ticket yourself?
A. The minute the ticket is issued, it's my obligation to pay the carrier.
Q. Okay. I guess that was the question. And then you pay it and then invoice the client?
A. Correct.
Q. And then the client repays you?
A. Correct.
Q. Was that the type of business arrangement that you had with MJJ Productions?
A. Yes.
Q. Now, at some point back in 2004, did members of the sheriff's department come to your business and execute a search warrant with regard to your records?
A. Yes, they did. 8060

Q. And those records involved MJJ Productions;
is that correct?
A. Yes.
Q. And the time period covered by that was
March -- February and March of 2003?
A. I believe that's correct.
MR. SNEDDON: Your Honor, may I approach the
witness?
THE COURT: Yes.
Q. BY MR. SNEDDON: All right. Mr. Dietz, I'm
going to hand you a book, and there are a number of
exhibits in the book. And the first exhibit I'd
like you to look at begins with 223 and I'd like you
to look just quickly through 249, and ask you if you
examined those documents yesterday, just to ensure
they're the documents that you examined.
A. Through what number?
Q. 249.
A. Did you say 239?
Q. 249.
A. I believe these are all the records that we
reviewed last night.
Q. And those records are records from your
business; is that correct?
A. That is correct.
BAILIFF CORTEZ: Excuse me, sir.
THE WITNESS: That is correct.
Q. BY MR. SNEDDON: And these records generally 8061

deal with what type of transactions?
A. Airline reservations, or airline tickets.
Q. And are they records dealing with your
business relationships with MJJ Productions?
A. They are invoices which reflect transactions
that we did.
Q. I think you're going to have to lean into
that mike a little bit.
A. Those are invoices that relate to tickets
that were issued to MJJ Productions.
Q. Now, are these generally the records that
are kept in the regular course of your business?
A. Yes, but not in the manner in which they
were given to you.
Q. What do you mean by that?
A. I mean the invoices are separated from the
copies of the tickets.
Q. Okay. We'll get to that. But both of those
documents are kept in the regular course of your
business; is that correct?
A. Yes.
Q. And the transactions that are reflected in
those documents, do those reflect transactions that
were made at or about the time that those events
occurred?
A. I believe they do.
Q. By people who are in your organization who
are responsible for documenting those? 8062

A. Yes.
Q. Let's turn -- if you could get that exhibit book and put it back in front of you, I'm going to ask you a couple of questions.
A. Okay.
Q. With regard to -- let's turn to Exhibit No. 224, if we can.
A. Okay.
Q. All right. On --
A. 2-2-4?
Q. Yeah, 2-2-4. 224.
A. Gotcha. All right.
Q. 224 has two pages in it, correct?
A. Yes.
Q. Now, with regard to the first page, what is the title of that document?
A. It's called an "Itinerary/invoice number."
Q. Do you recognize that document?
A. Yes, I do.
Q. Can you explain to us how that document's generated?
A. An agent in the office will book a reservation. The reservation system will then, at the agent's queue, ticket the reservation for the itinerary in question, and then an e-ticket is basically created for a passenger to be picked up at Los Angeles International Airport.
Q. And then with regard to that particular 8063

document, how do you use that in your business?
A. To collect money.
Q. To collect money. That's the invoice part of it?
A. That's the invoice part. The itinerary part is related to the -- for the accountant, business manager, to see the nature of the -- see the actual details of the flight, as would the ticket show you the same things, as relates to dinner or how long the flight was, things like that.
Q. All right. So these are generated at or about the time of the transaction, contemporaneous with the transaction?
A. Yes. In most cases.
Q. And you say the invoice part of it. How does it serve as an invoice? How do you use that in your business practice?
A. I mail them out for my services, and I expect them to get paid in a timely manner.
Q. Okay. Now, the second part of that Exhibit 224 has what is called an agent coupon, correct?
A. Correct.
Q. All right. Would you explain to us what the agent coupon is?
A. The agent coupon I believe represents our copy of the transaction for purposes of maintaining it for our regulatory people. In the airline 8064

1 business, you have to report your weekly sales of
2 airline tickets.
3 Q. So that would be a record used by you to be
4 audited --
5 A. We present the, quote, ⍰auditor's coupon,⍰
6 and we retain the agent coupon. A ticket has many
7 different -- has flight coupons, as well as agent
8 coupons, passenger coupons, and auditor coupons.
9 Q. And how is the document -- agent coupon
10 generated or prepared?
11 A. It's one of -- as I just stated, it's I
12 think a five-part document.
13 Q. But internally that document is generated
14 within your business?
15 A. Within our reservation system.
16 Q. Now, within your company, with regard to the
17 agent coupon document, are those located in a
18 separate place in your business?
19 A. Yes.
20 Q. So they're not located exactly with the
21 invoice and the itinerary information?
22 A. Definitely not.
23 Q. But they're both located and kept for
24 business purposes?
25 A. Correct.
26 Q. And are the exhibits contained in the ones
27 that you reviewed, 223 through 239 (sic), are those
28 records regularly relied upon by you to conduct 8065

1 business?
2 A. I believe they are, yes.
3 MR. SNEDDON: Your Honor, I'd move to admit
4 223 through 249 into evidence as business records.
5 MR. SANGER: No objection.
6 THE COURT: All right. They're admitted.
7 MR. SNEDDON: And with the Court's
8 permission, I'd like to remove a couple of the
9 documents to publish.
10 THE COURT: All right.
11 MR. SNEDDON: To ask some further questions.
12 I don't need the lights just yet, Your
13 Honor.
14 Q. There are two other documents that I want to
15 show you before we go through the publication
16 process. And I'm showing them to counsel.
17 These have been marked, Your Honor, as 852,
18 which is a three-page document from Air Apparent,
19 and 853, which is a five-page document, or five
20 pages in the document, which is also an Air Apparent
21 record.
22 And may I approach?
23 THE COURT: Yes.
24 Q. BY MR. SNEDDON: Mr. Dietz, I'm going to
25 hand you the exhibit marked as Exhibit 852. I'd
26 like you to take a look at that for just a moment.
27 A. Okay.
28 Q. Go ahead and take a look at the pages in 8066

that document. They're multiple pages.
Do you recognize those?
A. Yes.
Q. Those are also documents that were obtained through the search warrant?
A. I believe so.
Q. And those are also records that are kept in the normal course of your business?
A. I believe so.
Q. And it is also, just for the record, an itinerary/invoice record, correct?
A. Correct.
Q. And let me show you 853 and ask you if you recognize that. And the pages attached, there are five pages.
A. Yes.
Q. Do you recognize those documents?
A. Yes, I do.
Q. And you were able to compare those documents to your actual business records to ensure that they were part of the records that were taken pursuant to the search warrant, correct?
A. Yes.
Q. And with regard to those records, they were also made at or about the time of the transaction?
A. Yes.
Q. By personnel --
A. Yes. 8067

Q. -- in your office and kept in the normal course of business?
A. Yes.
Q. All right. Thank you.
Your Honor, I'd move to admit 852 and 853.
MR. SANGER: No objection.
THE COURT: They're admitted.
MR. SNEDDON: All right. Now, Your Honor, if we could have the Elmo, I'd appreciate it.
Q. The document that's up there is 223, which is in evidence, okay? Now, do you recognize this document?
A. Yes.
Q. Now, at the top of the document I'm indicating a customer number. Are the individuals that you service assigned a customer number?
A. Yes.
Q. And that number carried over to all the business transactions that you conduct with that particular individual or company?
A. Several accounts have different companies -- there is different -- there are some accounts that have different customer numbers.
Q. In other words, an individual or a business may have more than one account with you?
A. Correct.
Q. Okay. But wherever they are billed to, that number is used, either on one of the accounts or on 8068

1 another account with regard to that business or
2 individual?
3 A. The MJJ Productions had more than one
4 account.
5 Q. Correct. Now, the information at the top,
6 it says, "MJJ Productions." What is that
7 information in terms of how you conduct your
8 business?
9 A. That's the mailing -- that's the mailing
10 address that we've been requested to send invoices
11 to.
12 Q. And with regard to the next line down, it
13 says "For," and has "Gavin Arvizo, Star Arvizo,
14 Janet Arvizo." Do you see that?
15 A. Yes.
16 Q. And what does that information reflect?
17 A. I believe it reflects the passengers' names.
18 Q. And obviously the next says, "Travel
19 Itinerary." This is the itinerary that was explored
20 for these individuals; is that correct?
21 A. Correct.
22 Q. And lastly, it indicates whether the ticket
23 is a one-way ticket or a round-trip ticket, correct?
24 A. Correct.
25 Q. In this case, this particular itinerary
26 that was looked into was a one-way ticket for those
27 individuals?
28 A. Correct. 8069

Q. Now, with regard to this particular document -- look in the book, if you would, to the document in front of you that's 224, okay?
A. Yeah.
Q. On that particular document, the heading on it is "Itinerary and Invoice," correct? On 224?
A. Yes.
Q. And this particular document only reflects the itinerary on the date of February the 5th, correct, of 2003?
A. Correct.
Q. What is the difference, if there is one, in the use between the document reflected in 223 and the document that you just spoke about in 224?
A. Well, the itinerary typically is a document which you would fax to somebody or e-mail somebody to inform that -- to more or less confirm with the person that requested the transportation that, "This is the itinerary request" --
Q. Okay. And --
A. -- "correct?" And then we expect, you know, "That's right. Ticket it."
Q. And with regard to the travel itinerary, I want to go back to the date underneath where it says, "Travel Itinerary," on 223, it says, "05 February, .03." That would be the date of travel?
A. That's correct.
Q. Okay. We can take that one down. 8070

All right. This is Exhibit 852, all right?
A. Yes.
Q. Could you explain to us what this particular document is that is displayed as 852 and that has the heading "Itinerary/Invoice Number"?
A. This is primarily what I refer to as an invoice. And as I was relating before, besides showing you how much the tickets cost, it also provides an itinerary for the passenger, or for the person paying the bill, so that they can see that -- whatever flight information they want to see from that.
Q. All right. Now, in this particular document, 852, it reflects that the customer -- it has a customer number, correct?
A. Correct.
Q. Is that the customer number for one of the accounts for MJJ Productions?
A. Yes.
Q. And then the "To" section on this particular document, 852, is where you would send the bills to?
A. That's correct.
Q. Right below are a couple of names. What are those names? Why are those names on that itinerary?
A. That probably represents the passengers flying.
Q. And then under "Travel Itinerary," then that is the flight information, correct? 8071

A. That is correct.
Q. And then on the Travel Itinerary it has, above -- on the line where I'm showing, it shows air -- "American Airlines Flight 1245," and then it has across there "Business." What does that reflect?
A. The type of service. Business class.
Q. Business class. And to your knowledge, how many types of services or classes are there on ordinary domestic flights?
A. Primarily coach and first class. They throw in business as well.
Q. And then down at the bottom it would be the total amount due on this particular invoice?
A. That's correct.
Q. All right. The second page of the Exhibit 852, what is that?
A. That's a copy -- that's the agent coupon.
Q. This is what you told the jury about earlier in your testimony?
A. Yes.
Q. And with regard to this particular document, the information that is on this document, does it give flight information?
A. Yes.
Q. And does it give the name of the individual on it?
A. Certainly. 8072

1 Q. So in this case, it says, ⍰Christopher
2 Carter,⍰ correct?
3 A. Correct.
4 Q. And it also contains the amount of money
5 that's paid?
6 A. Correct.
7 Q. All right. The third and last document of
8 page 852 is another agent coupon, correct?
9 A. Yes.
10 Q. It reflects a different name on it; is that
11 right?
12 A. Correct.
13 Q. And the name being?
14 A. ⍰Danny Crawford.⍰
15 Q. And these two names are the same names that
16 are on the front page of the invoice/itinerary that
17 you earlier talked about as Exhibit 852. I don't
18 know if you have that in front of you. We can put
19 that back up. Here it is.
20 Same two names under the ⍰For⍰ section,
21 F-o-r, in 852, correct?
22 A. The first one said Christopher Carter. That
23 makes sense. The second one said Danny Crawford.
24 Q. And they correspond to the agent coupons
25 that go with this document?
26 A. Yes.
27 Q. The flight information matches up; is that
28 correct? 8073

A. That's -- hold on one second. If you go back to the ticket, I can tell you.
Q. All right. Put the agent coupon back up. You may want to heighten that up a little bit.
A. I'm trying to look first.
BAILIFF CORTEZ: Okay.
THE WITNESS: Can't see the flight information. J. American Airlines. I'm sorry, I'm not that familiar with these documents.
MR. SANGER: Your Honor, excuse me. I'm sorry.
MR. SNEDDON: Let me --
MR. SANGER: I couldn't hear the witness's last answer.
MR. SNEDDON: There was no question pending, I don't think.
MR. SANGER: He was asked to look at the -- he said something about, "I'm not" -- sounded like he said, "I'm not familiar," and I couldn't hear what he said.
THE WITNESS: I said -- do you want me to answer?
THE COURT: He said that he wasn't that familiar with the document.
MR. SANGER: Thank you, Your Honor.
THE WITNESS: What are -- what do you want me to tell you about this document?
MR. SNEDDON: Let me just put that down. 8074

Let's put 852 back up. This is....
Q. All right. On the document, 852, it has two airline ticket numbers, correct, in the lower left-hand corner?
A. I can tell you if they're the same ticket numbers for sure --
Q. You have to turn into the microphone.
A. I can tell you if they're the same numbers if you go back.
Q. You got ticket numbers on the invoice and itinerary.
A. That I can see. 465, 466.
Q. Okay. And then if you put up the other two --
A. 466 and 465.
Q. They match?
A. That matches.
Q. So they go with that flight?
A. I believe they do.
Q. All right. Wasn't supposed to be that hard. It's hard to see from here. No problem. Let's try 853. All right. Now, this 853 is another document that's an itinerary/invoice, correct?
A. Yes.
Q. For March 2nd?
A. Right.
Q. And it reflects that there are four people 8075

who are supposed to travel under this invoice?
A. Yes.
Q. And four tickets issued down in the lower left-hand corner, correct?
A. Yes.
Q. With ticket numbers associated with that flight?
A. Yes.
Q. All right. Now, I'm going to put up the first agent coupon for that flight. And I'll tell you what I'm going to do. I'm going to come up there and hand you 852, the first page. Make this easier.
A. Yes. Thanks.
Q. Now, looking at 852, and the front part of it that has the ticket information for it, and looking at the exhibit -- agent coupon, which is part of that exhibit, does the ticket number on the front of that invoice match the agent coupon on the Exhibit 853? Or -- 853, yes.
A. Yes.
Q. All right. Let's put the second one up.
And -- excuse me. That was for an M. Jackson, correct?
A. Yes.
Q. All right. Let's put the second one up, the second agent coupon.
Now, this particular agent coupon has 8076

1 stamped in the middle of it Void, v-o-i-d,
2 correct?
3 A. Correct.
4 Q. And could you look at the front of the
5 document, the first page with regard to the ticket
6 number? Does the ticket number on the agent coupon
7 for a Michael LaPerruque match the ticket number on
8 the front of the invoice for this particular
9 document, 853?
10 A. Yes.
11 Q. Now, with regard to your business practices,
12 what does it mean when you have an agent coupon that
13 has Void on it?
14 A. The ticket was not used.
15 Q. And how is it that you become informed, in
16 your normal business practices, that the ticket was
17 not used?
18 A. In our normal business practices?
19 Q. Right.
20 A. Either they don't show up at the airport, or
21 somebody calls in and tells us to cancel the
22 reservation.
23 Q. Are you also -- are you given any
24 information from the airlines themselves that
25 reflects whether the person was on the flight or
26 not?
27 A. No -- yes. For e-tickets, the person has to
28 pick up the e-ticket. 8077

Q. And if they don't, then you're notified?
A. Then we're notified.
Q. And --
A. To the best of my knowledge.
Q. And the particular stamp "Void" that's on the ticket agent -- or the agent coupon, on this one for Mr. LaPerruque, is that placed on there by your staff in the regular course of your business in the performance of their responsibilities?
A. Yes. Yes.
Q. Is this document used to adjust any billings that may have occurred where a ticket wouldn't be used?
A. Certainly.
Q. Let's go back to the document you have in front of you, which is 853, okay?
A. Uh-huh.
Q. So we're all on the same page. 853 is a billing for four tickets in the total amount of what?
A. $6,644.
Q. And if this ticket -- if this particular ticket to Mr. LaPerruque isn't used, then you have to adjust your billings accordingly; is that correct?
A. Yes.
Q. All right. Let's go to the next one. The next agent coupon involves an individual by the name 8078

1 of Marie Cascio. Do you see that?
2 A. Yes.
3 Q. And on the exhibit that you have in front of
4 you, the itinerary invoice, does the name Marie
5 Cascio appear?
6 A. Yes.
7 Q. And is the ticket number assigned to her on
8 the exhibit number of the first age, 853, the same
9 as the ticket number on the agent coupon that the
10 jury's looking at?
11 A. Yes.
12 Q. And again, this one is stamped with Void,
13 correct?
14 A. Correct.
15 Q. Meaning she did not take the trip?
16 A. She did not make that trip.
17 Q. All right. Let's put up the last one.
18 The last agent coupon associated with the
19 invoice 853 is an Aldo Cascio, correct?
20 A. Yes.
21 Q. Does the ticket number on this particular
22 document, the agent coupon, match up with the ticket
23 number on the first page of 853?
24 A. Yes.
25 Q. And again, this one is stamped with Void,
26 correct?
27 A. Yes.
28 Q. Indicating the person did not make the 8079

1 flight?
2 A. Yes.
3 MR. SNEDDON: I think we can have the
4 lights, Your Honor. Thank you.
5 I have two more documents, Your Honor, that
6 I'd like to have marked for identification. 854 and
7 855 for identification purposes. I'm showing them
8 to counsel. He's seen them.
9 THE COURT: All right.
10 Q. BY MR. SNEDDON: All right. Mr. Dietz, I'm
11 going to take this back so we don't lose it. You
12 can swing around there.
13 I'm going to show you a document that --
14 it's actually a three-page document, front, back and
15 then front, entitled, Client Summary, and ask you
16 to look at that document.
17 Do you recognize that document?
18 A. Yes, I do.
19 Q. And does that document for the time period
20 of - may I have it back just a second, just to make
21 sure I've got this right? - February 5th, 2003,
22 through February 12th, 2003, reflect the summary of
23 the transactions that -- and services provided by
24 your company to MJJ Productions?
25 A. Not this in front of us. This is only two
26 pages.
27 Q. No, the back page.
28 MR. SANGER: I'm sorry, I can't hear the 8080

witness.
MR. SNEDDON: He said --
Q. Lean into it and say what you said.
A. I'm sorry, I thought we did more
transactions than this in that time frame. There
must be another client summary.
Q. This is only for the 5th to the 12th.
A. Okay.
MR. SANGER: Objection. Leading and
argumentative.
THE COURT: Overruled.
Q. BY MR. SNEDDON: Go ahead and take the paper
clip off and look at all three pages.
Have you looked at all three pages?
A. Yes.
Q. Okay. You --
A. But they only reflect activity through
February 12th, when this is for February 1st through
March 31st.
Q. Okay. But the caption at the right is --
has a larger period, correct?
A. That's right.
Q. All right. Now, I want to show you --
A. And there's transactions that you've shown
me that are clearly not on here.
Q. Now I want to show you Exhibit 855.
A. Okay.
Q. And take the clip off and look at them front 8081

and back, if you would.
A. Okay. Okay.
Q. You've seen those documents before, correct?
A. Yes.
Q. You saw them last night?
A. Correct.
Q. Are those the other transactions that you had in mind between this time period in question?
A. Yes.
MR. SANGER: Objection; calls for hearsay.
THE COURT: Overruled.
Q. BY MR. SNEDDON: And this particular document, which is 13 pages in length, covers the period 2-12-03 --
A. Uh-huh.
Q. -- correct? And ends at the end of March of 2003, correct?
A. Uh-huh. Yes.
Q. Now -- all right. Why don't you keep these for just a second.
All right. Now, Mr. Dietz, with regard to the Exhibit 854, does that have an account number on it?
A. 854. Yes, it does.
Q. What's the account number?
A. 1359.
Q. What's the customer?
A. MJJ Productions, Inc. 8082

Q. You're going to have to lean into the mike.
A. MJJ Productions, Inc.
Q. All right. Now, let's look at Exhibit 855, if we can.
A. Okay.
Q. What's the billing account on that particular series of transactions?
A. MJJ Productions, Inc.
Q. That's the customer?
A. That's the customer.
Q. What's the account number?
A. 1656.
Q. It's a different account from the other -- from Exhibit 854, correct?
A. That's correct.
Q. Now, with regard to the information that is reflected in those client summary forms - okay? - the information reflected in those, is that information that you keep in the normal course of your business?
MR. SANGER: I'm going to object, Your Honor. There's a lack of foundation as to who prepared these and where they came from.
MR. SNEDDON: Well, that's what I'm trying to do.
THE COURT: The objection is overruled. You may answer.
Q. BY MR. SNEDDON: Is the information 8083

contained in these documents, Client Summary,
information that you utilized in your business to
bill clients and to keep a history on the services
you provide to those clients?
A. Is the information?
Q. Yes.
A. Yes, the information is.
Q. And then that information, in this
particular case with regard to MJJ Productions'
accounts during this time period, was put into this
format, correct?
MR. SANGER: Objection; lack of foundation.
THE COURT: I don't know what the question --
really what you're asking him. Maybe you do, but I
don't.
MR. SNEDDON: If you don't, the jury
doesn't, so I better start over again.
Q. The documents that you have, let's start
with them individually. 854, the Client Summary for
854, okay?
A. Yes.
Q. All right. Did your -- did your business
prepare those documents?
A. Yes.
Q. And -- you have to lean into the microphone.
A. Yes.
Q. And did your business -- did the information
contained on the document, 854, come from business 8084

entries of documents that you maintained in the regular course of your business, information that you maintained?
A. Yes. It's a computer-generated report. It's something we made up. It's something that the computer generates based on the subpoena we received, which was to give us all the transactions that occurred between February 1st and March 31st.
Q. And between the documents 8 -- in 855, the document 855, look at that. That's a Client Summary?
A. Uh-huh.
Q. Is that the same -- would you make the same statement with regard to that document? It's information generated from your computers?
A. That's correct.
Q. And --
A. For the purposes of the subpoena.
Q. Correct. Now, with regard to those particular documents, do they cover the transactions that are reflected in the Exhibits 223 through 249?
A. I haven't had time to do that, but I would assume they do.
Q. Well, yesterday --
MR. SANGER: Excuse me. Move to strike as speculation.
THE COURT: Sustained. Stricken.
Q. BY MR. SNEDDON: Yesterday, you were asked 8085

to look at those Client Summary forms and compare them with certain transactions to confirm whether or not particular invoices were sent in certain amounts for certain flights, correct?
MR. SANGER: Objection; leading.
THE COURT: Overruled.
THE WITNESS: Can you say that again?
THE COURT: I can have it read back to you.
Just a moment.
(Record read.)
THE WITNESS: Yes, we briefly looked at this Client Summary for a few -- for a few -- I would say for less than 30 seconds. And I referred -- I actually remember going back to it once or twice with respect to one or two invoices on it.
Q. BY MR. SNEDDON: Right.
A. Rather than every one on them. So I couldn't attest to every one. In general --
Q. We discussed in general --
A. We discussed the ones you've already brought up.
Q. Let's just establish that, okay?
A. Okay.
MR. SANGER: I want to move -- Mr. Sneddon's comments about what he discussed, move to strike those.
MR. SNEDDON: I don't have a problem with that, Judge. I'll just ask the question. 8086

THE COURT: All right. Go ahead.
Q. BY MR. SNEDDON: Mr. Dietz, with regard to the Documents 854 and 855 --
A. Yes.
Q. -- yesterday you and I discussed how those documents were prepared, correct?
A. Yes.
MR. SANGER: Objection; leading.
THE WITNESS: Yes.
THE COURT: Overruled. The answer is, "Yes."
Next question.
Q. BY MR. SNEDDON: And then I asked you to take those documents and look at a couple of specific flights, did I not?
A. Yes.
MR. SANGER: Objection. Leading, Your Honor.
THE COURT: Overruled.
Q. BY MR. SNEDDON: Now, with regard to the transaction reflected in the Document 853 --
A. Okay.
Q. -- all right? - were you asked to look at your Client Summary form to determine whether or not the invoice reflects a charge of 6,000 -- whatever it is, $6,600 for those four people, or whether it reflects a flight of one person?
A. It reflects -- I believe it reflects the price of one person. 8087

MR. SANGER: I'm going to move to strike that answer on the grounds that it's based on hearsay. And there's no foundation.
MR. SNEDDON: Your Honor, I think he's -- the records are before the Court, and he's simply using this to verify the authenticity of those records.
MR. SANGER: Objection to speaking responses.
MR. SNEDDON: Well --
THE COURT: Well, it seems to me you haven't offered them as business records.
MR. SNEDDON: I was getting there. I was trying to lay the foundation for that, as to the relevancy first, and then I was going to go into that. Perhaps if you --
THE COURT: I think if you go to the business record foundation first, and then they're either admitted or not admitted, then you're -- if they're admitted, then you can question him in the way you're questioning him.
MR. SNEDDON: All right.
THE COURT: And I know I might be not quite understanding still the record that he's looking at.
MR. SNEDDON: Let me ask one other question. It might help the Court guide us through this.
THE COURT: All right.
MR. SNEDDON: Make it a little clearer. 8088

Q. Mr. Dietz, you're going to have to lean into the microphone there, okay?
A. Uh-huh.
Q. Mr. Dietz, with regard to the Exhibit 853 - okay? - that's the one that has the void tickets on it.
A. Yes.
Q. -- does your business maintain information that would reflect the adjustment as to whether or not the original invoice is sent to your client for payment or some subsequent amount is sent to reflect the voids?
A. The original invoice may have definitely been mailed out. Actually, no, I know that it was not mailed out. It was adjusted to reflect that one passenger -- that only one e-ticket was issued.
Q. Now, going to the Client Summary form, okay?
A. Yes.
Q. Do the Client Summary forms contain information maintained by your business in the normal course of business to reflect the transactions that occurred on the exhibits that I showed you, 223 to 249?
A. Yes.
Q. And that information is kept in the normal course of your business, correct?
A. The information on that summary is.
Q. Yes. 8089

A. Yes.
Q. And with regard to the mode and time of the preparation of that information as it's placed into your computer, it's made at or about the time of the transactions; is that correct?
MR. SANGER: Objection. That -- there's a lack of foundation. That's the connection. Lack of foundation.
THE COURT: Overruled.
You may answer.
THE WITNESS: Can you repeat the question?
THE COURT: Yes.
(Record read.)
THE WITNESS: Yes and no.
Q. BY MR. SNEDDON: Yes and what?
A. Reservations can be made. It's only -- an invoice is generated only when the reservation is turned into a ticket.
Q. Right. And that's what we're talking about here.
A. Okay.
MR. SANGER: Objection. Move to strike counsel's comment.
MR. SNEDDON: Well --
THE COURT: Overruled. Go ahead.
Q. BY MR. SNEDDON: Just so there will be no question about it, the exhibits we're talking about, except for the one exhibit, 223, all reflect 8090

transactions that occurred, correct, tickets were issued?
A. Except for --
MR. SANGER: I'm sorry, I have to object.
What exhibits are we talking about, except for 223?
Vague.
MR. SNEDDON: I'll clarify it.
Q. I asked you to look at the documents 223 through 249, and then I asked you to look at 852 and 853, correct?
A. Yes.
Q. All right. Are those all transactions that occurred between you, Air Apparent, your company, and MJJ Productions?
A. Yes.
Q. And with regard to the information contained on those transactions, is that the information that's downloaded to your computers?
A. Yes.
Q. And you use that for your business purposes?
A. Yes.
Q. And with regard to the exhibits, now getting back to 854 and 855 - all right? --
A. Yeah.
Q. -- they contain a client summary - correct? --
A. Yeah.
Q. -- of all of those transactions from information that was loaded into your computers at 8091

or about the time of the transactions?
A. Correct.
MR. SNEDDON: All right. I move they be admitted.
MR. SANGER: And I would object.
MR. SNEDDON: Let me ask one more question. I want to ask one more question, and this may take care of it.
Q. With regard to the Client Summary form - okay? - and the information that's on that form - okay? - does that information -- from that information, are you able, in the due course of your business, to be able to provide invoices to clients to be paid that may be different than the original invoices that were sent out?
A. Yes.
MR. SNEDDON: All right. Now I move they --
THE WITNESS: But not in that form.
Q. BY MR. SNEDDON: I understand that. But that's what the information is used for, correct, the information that's in your computer?
A. Yes.
MR. SANGER: I'm going to object. It's leading; argumentative; statements of counsel.
THE COURT: Overruled.
Q. BY MR. SNEDDON: I think the point you're trying to make -- and I think you made it, but let's just make sure that the jury understands. What 8092

you're --
MR. SANGER: Move to strike comments of counsel, Your Honor.
THE COURT: Sustained.
Q. BY MR. SNEDDON: The Client Summary form was a form that was produced specifically to respond to the search warrant, correct?
A. Yes.
Q. That form itself is not something that you use ordinarily, correct?
A. Yes.
Q. All right. But the information on the form is all information that you house at your place of business to conduct business, correct? It was just downloaded into a different format?
A. I -- yes.
MR. SANGER: Objection. Well -- I was going to object, compound.
THE COURT: Sustained.
MR. SNEDDON: All right. We'll break it up.
Q. Is it information that you maintain at your place of business to conduct business?
A. Is what, the --
Q. The information on those forms.
A. Yes.
Q. Is that input into your computer?
A. Yes.
Q. All right. And is that information -- 8093

A. That's the output. That is the output from input.
Q. Well, let's go back. It's a matter of semantics.
A. Okay.
Q. The information on the form is the output?
A. Correct.
Q. The information that went into the computer is the input?
A. Correct.
Q. The information that's input is information that you keep in the normal course of your business?
A. Yes.
Q. It happened to be output into this format for this trial?
A. Yes.
Q. But reflects information that you keep?
A. Yes.
MR. SNEDDON: All right. Now I move that they be admitted.
MR. SANGER: And I object and request either to have an opportunity to voir dire or ask the Court to reserve ruling until cross.
THE COURT: Well, I think he needs to ask him some questions about this, so I'll let you voir dire now, rather than wait. I don't think that's productive.
MR. SANGER: That's fine. That's why I 8094

offered. Thank you.

VOIR DIRE EXAMINATION
BY MR. SANGER:
Q. Mr. Dietz, how are you doing?
A. Good. How are you doing?
Q. I'm doing fine, thank you.
On 854 and 855, it's my understanding that you had not seen those document before they were shown to you by the District Attorney; is that correct?
A. Um, before last evening?
Q. Yes.
A. I might have looked at them in preparation for coming up here.
Q. You're not sure?
A. I'm not sure.
Q. And those are not documents that you downloaded from your computer; is that correct?
A. I don't believe I downloaded them. I believe one of my accounting staff did.
Q. Okay. So you're assuming that that was something somebody on your accounting staff did; is that correct?
A. I'm pretty certain that it's something that somebody did on my accounting staff.
Q. You have not had an opportunity to verify whether or not the billing amounts, the invoice 8095

amounts to the particular client, are accurate in each regard on those two exhibits; is that correct, sir?
A. Do you mean the invoices to the statement?
Q. Yes. In other words --
A. To the Client Summary that's been presented?
Q. Let me withdraw it. Your question indicates that my question was not clear.
A. All right.
Q. On 854 and 855 --
A. Yeah.
Q. -- these client billing summaries --
A. Yeah.
Q. -- they show invoice amounts to the client, correct?
A. Correct.
Q. You have not had an opportunity to determine whether or not the invoice amounts shown on those documents are accurate in each case; is that correct?
A. Not in each case.
Q. And these documents, as far as you knew, were prepared for the purposes of this litigation; is that right?
A. Yes.
MR. SANGER: I have no further questions on voir dire, and I object.
THE COURT: Does that material on the 8096

printouts on 854, 855, is that a compilation of the material that's in your computer on this particular account?
THE WITNESS: Yes.
THE COURT: All right. Your objection is overruled. They're admitted as a compilation. But after that --
MR. SNEDDON: I should have let you ask the questions, Your Honor. We'd be way ahead of the game.
THE COURT: Well, I've just got to start this break early. That was so painful.
(Laughter.)
(Recess taken.)
THE COURT: All right. Mr. Sneddon, go ahead.
Q. BY MR. SNEDDON: Mr. Dietz, I placed in front of you the document that's in evidence. That's 853, all right?
And does that document have or bear an invoice number?
A. Yes, it does.
Q. What is that invoice number?
A. 0143505.
Q. And the amount of money that's indicated on that invoice number is what?
A. $6,644.
Q. For four tickets? 8097

A. Correct.
MR. SNEDDON: I'm going to place on the Elmo, Your Honor, if I might have it for just a moment, page six of Exhibit 855.
No, the other one. Back. Back. There.
All right.
Q. The information contained on page six of Exhibit 855 has the date in the far left-hand corner; is that correct?
A. Correct.
Q. And moving down the date to March 1st, 2003, in the second column over, what does the number 143505 refer to?
A. The invoice number.
Q. And with regard --
MR. SANGER: Excuse me.
Q. BY MR. SNEDDON: -- to the far right-hand side of the exhibit at the top, it bears the word □fare,□ correct, f-a-r-e?
A. Yes.
Q. And with regard to the flight on Invoice No. 143505, you billed $1,661, correct?
A. Yes.
Q. Is the invoice number and trip reflected on page six of the Exhibit 855 the same trip that's represented by the invoice number on 853?
A. You got me there. Where is 855?
Q. 853, the one in your hands. 855 is the one 8098

1 on the board.
2 A. Okay.
3 Q. Is that the same trip?
4 A. That is the same trip, but the invoice
5 was -- the ticket was issued the weekend. It was
6 changed over the weekend, or reservations were
7 cancelled. Flights were issued, e-tickets were
8 issued. Three of the passengers did not travel --
9 Q. So this --
10 A. -- on this itinerary.
11 Q. Okay. So 855 reflects the fact that only
12 one person traveled on that itinerary that's been
13 marked as 853 that's in your hand, correct?
14 A. Correct.
15 Q. I couldn't hear you.
16 A. Correct.
17 MR. SNEDDON: All right. No further
18 questions.
19 MR. SANGER: Can I have the exhibits,
20 please?
21 MR. SNEDDON: I was going to put them back
22 together again. If you want to have them, here.
23 MR. SANGER: Why don't we keep them out for
24 now, please.
25 MR. SNEDDON: The rest of them are up there.
26 MR. SANGER: May I approach to retrieve the
27 exhibits?
28 THE COURT: Yes. 8099

MR. SANGER: I'm just a little concerned, Your Honor. Mr. Sneddon said he was going to put them back together, so I think I will give them to Mr. Sneddon so they get in the right position there.
MR. SNEDDON: They're all in order except for the one that was taken away from me.
MR. SANGER: All right. There it is.

CROSS-EXAMINATION
BY MR. SANGER:
Q. All right. First of all, on -- with regard to these summaries you just saw up on the board, particularly you took a look at one of the pages, I think it was page six, and it showed the amount that was billed, and it showed it was billed for one person to travel, right?
A. Yes.
Q. Say a word so the court reporter can get it down.
A. Sorry.
Q. That's okay.
You are assuming that that record was accurately placed into the computer database by whoever entered these things; is that correct?
A. Correct.
Q. All right. And you noted from the other actual tickets that it appeared that three of the tickets, the ones for the Cascios, I believe, were 8100

voided?
A. Yes.
Q. Okay. There was the Cascios and LaPerruque, correct?
A. Yes.
Q. They were voided. You look at that, and you pretty much figure, well, as far as your company was concerned, the person that traveled on that particular day was Mr. Jackson?
A. I would not necessarily assume that.
Q. Okay. I was going to ask you how you would come to that conclusion. So you're saying you don't know that?
A. Correct.
Q. All right. Now, I want to show you -- you have the book in front of you there --
A. Yeah.
Q. -- with the exhibits in the 200 series. And I'd ask you to turn to Exhibit 223, and I believe that that is a two-page exhibit; is that correct?
A. Yes, it is.
MR. SANGER: All right. And, Your Honor, with the Court's permission, I would like to put the copy I was given of those two pages up on the -- on the board, if I may.
THE COURT: Okay.
MR. SANGER: Or up on the machine.
Q. And I'm going to show you the first page of 8101

exhibit -- the 223. And that's already been up there before, but I'll ask you to look at that again. And this appears to be an itinerary that was generated somehow, correct?
A. Yes.
Q. That's not your usual format for itineraries that are generated, is it?
A. For itineraries, I believe it is.
Q. Okay. All the other itineraries that you have shown for Exhibits 224 through 249 are generated on letterhead, with a different font, in a different format; isn't that correct?
A. Yes, they're associated with an invoice.
Q. All right. Now, this particular one was not associated with an invoice because it was not sent -- an invoice was not sent for payment on this flight; is that correct?
A. I cannot tell from what I see here.
Q. All right. Do you know whether or not that flight took place?
A. I do not know.
Q. All right. And ordinarily when flights are booked through your agency by MJJ Productions, who is it that contacts you to book the flights?
A. Evvy.
Q. All right. And I'll tell you what. I'm going to ask you to just turn around and look this way, and I'll direct your attention to the board in 8102

a second when we put the next one up, but it's hard for everybody to hear you.
A. Okay.
Q. So Evvy Tavasci is ordinarily the person who would be contacting your agency, correct?
A. Yes.
Q. All right. And she contacts your agency not just for Mr. Jackson's travel arrangements, but for other employees of MJJ Productions, correct?
A. Definitely.
Q. Okay. And to your knowledge, if some other employee of MJJ Productions needs to travel for some business-related purpose, they would contact her, and she would in turn contact you; is that correct?
A. Yes.
Q. When you make a flight arrangement for Evvy Tavasci, or at her -- at her request, do you fax a confirmation?
A. I'm not sure. I don't know our daily practices.
Q. You're not the person that actually does it?
A. Not at all.
Q. You just own the place?
A. Yes.
Q. There you go. All right. Well, let me show you this anyway and see if this is -- this is the second page I'm going to put up of this exhibit, and I'd like you to read the top -- no, I'm kidding. 8103

(Laughter.)
Q. BY MR. SANGER: I'd like you just to look down at the bottom there. There's a TX Result Report.
A. Yes.
Q. Is that a fax report?
A. Yes, it is.
Q. Now, I am going to focus in on that a little bit more here. Give you a fair chance. Do you recognize the telephone or the fax number that that was sent to as being a fax number associated with anybody?
A. I do not.
Q. Okay. And it appears that this fax -- just go a little wider there. The result on the right is that it did not go through. It's □NG,□ correct?
A. That's what it looks like to me.
Q. And it says, □Redial, all failed,□ right?
A. That's what it looks like to me.
Q. Now, your business has regular communications -- during this period of time, your business had regular communications with Evvy Tavasci, correct?
A. Yes.
Q. And you had a good fax number for her, correct?
A. Yes.
Q. Is there any indication in these two 8104

1 documents -- and you can actually look at the
2 documents in front of you, since I just have a copy
3 here.
4 A. Okay.
5 Q. If you look at these two documents that are
6 marked as 223, is there any way to determine the
7 time of day on February 5th that these tickets were
8 requested?
9 A. Requested?
10 Q. Yes.
11 A. No. Prior to 11:31.
12 Q. You know it's prior to 11:31, because that's
13 when the fax first was attempted, the fax that
14 didn't work, correct?
15 A. That's correct.
16 Q. And ordinarily, your people would be pretty
17 prompt if they were setting up a ticket for the same
18 day. And I believe this is a ticket for the same
19 day, right? You can take a look at your --
20 A. Yes, it looks like that way. Yes, for a
21 flight at two o'clock in the afternoon.
22 Q. The flight was to depart at two o'clock in
23 the afternoon of February the 5th?
24 A. Correct.
25 Q. So if somebody were doing this and faxing it
26 out at 11:51 in the morning, they probably had made
27 the arrangements very shortly before that; is that
28 correct? 8105

A. That is correct.
Q. All right. Now, the fact that on the top of -- you keep looking at what you're looking at there.
A. They didn't necessarily make the reservation at the time they called it in. I mean, on this day. They could have -- they could have made the reservation prior to this date.
Q. Okay.
A. If that's the question.
Q. Well, that's fair enough.
You look -- well, you're looking at your copy there. You're on the first page?
A. Uh-huh.
Q. And at the top -- at the top there, it says, "To MJJ Productions," and "Attention: Evvy, Personal and Confidential"?
A. Uh-huh.
Q. Does that mean that Evvy was actually the person that called this in?
A. Not necessarily.
Q. Somebody could have called it in and then you would be dealing with Evvy Tavasci at MJJ Productions, correct?
A. Yes.
Q. So, in essence, from the records that you have before you, you do not have any idea who called in this request for tickets? 8106

A. Let me clarify. Most of the tickets, to my knowledge, were ordered or confirmed by Evvy.
Q. I understand.
A. Some of them were called in by other employees of MJJ Productions.
Q. Okay.
A. But nothing was done without, typically, getting Evvy's authorization.
Q. So theoretically, before this flight -- before the tickets would actually issue on this flight, you would need to have Evvy's confirmation, correct?
A. Typically, yes.
Q. Maybe Narcisse, who also worked there, correct?
A. I'm not sure if Narcisse is on the -- she definitely is calling some things in. I'm not sure if she's a part of the approval process.
Q. But going back to my question originally, here, you cannot tell who actually called this in. In other words, somebody else -- somebody else entirely different could have called it in?
MR. SNEDDON: I'm going to object. Calls for speculation, Your Honor.
THE COURT: Overruled.
THE WITNESS: I cannot tell who called this in.
Q. BY MR. SANGER: All right. And then if you 8107

look at the air fare there, that's economy air fare, $1,180.50 per person, right?
A. Yes.
Q. Does that tend to indicate to you that this was a flight that was scheduled at the last minute?
A. I -- I can't speculate on that. I think it was -- I mean, my gut feeling is yes, but --
Q. All right.
A. I don't know if it was called in last minute.
Q. Okay. I'm going to take that down for a moment.
A. You know, it might have been contemporaneously, only because ticket fares are good for only, you know, for a 24-hour period per se. So the fare is only good for -- for a certain time frame, and then it will move on. So --
Q. Now, you testified to some other documents as to who might have been -- I'm sorry, you testified to other documents as to whose names were on particular tickets or potential tickets. You do not actually know who flew on a particular day; is that correct?
A. I do not.
Q. And, of course, if you -- if somebody booked flights independent of your agency, you would not know about those flights; is that correct?
A. That is correct. 8108

1 MR. SANGER: Okay. I have no further
2 questions. And I have the exhibits that were handed
3 to me. I'm just going to leave them here.
4
5 REDIRECT EXAMINATION
6 BY MR. SNEDDON:
7 Q. Mr. Dietz, are you familiar with the
8 regulations that were put in place as a result of
9 9/11?
10 A. Yes.
11 Q. And given the regulations that are in place
12 as a result of 9/11, in your opinion, based upon
13 your experience in the travel industry, that another
14 person cannot travel on a ticket -- that a person
15 cannot travel on a ticket not issued to them without
16 proof of identification?
17 A. That's my understanding.
18 MR. SNEDDON: Nothing further.
19 MR. SANGER: No further questions.
20 THE COURT: Thank you. You may step down.
21 MR. NICOLA: People call Jeff Schwartz, Your
22 Honor.
23 THE COURT: Come forward, please.
24 When you get to the witness stand, please
25 remain standing.
26 BAILIFF CORTEZ: Right here, sir. Stand up
27 there. Face the clerk.
28 THE COURT: Face the clerk and raise your 8109

1 right hand. She's right here.
2
3 JEFFREY SCHWARTZ
4 Having been sworn, testified as follows:
5
6 THE WITNESS: I do.
7 THE CLERK: Please be seated. State and
8 spell your name for the record.
9 THE WITNESS: Jeffrey Schwartz.
10 J-e-f-f-r-e-y, S-c-h-w-a-r-t-z.
11 THE CLERK: Thank you.
12
13 DIRECT EXAMINATION
14 BY MR. NICOLA:
15 Q. Good afternoon, sir.
16 A. Good afternoon.
17 Q. Would you tell the jury, please, who you're
18 employed with?
19 A. My employer is Talk America.
20 Q. And what is Talk America?
21 A. We're a C-lite local and long-distance
22 Internet telephone provider.
23 Q. Are you here to testify today as their
24 custodian of records?
25 A. I am.
26 MR. NICOLA: May I approach the witness,
27 Your Honor?
28 THE COURT: Yes. 8110

Q. BY MR. NICOLA: I've placed in front of you Exhibit 458, and I ask you if you recognize that document, and if you do, what is it, please?
A. I do. It's subscriber information from a customer of Talk America, Jay Jackson.
Q. And does that Exhibit 458 also contain toll records for the period of January, February and March of the year 2003?
A. It does.
Q. Is the information contained within that exhibit material that is generated within the regular course and scope of the business of Talk America?
A. It is.
Q. Okay. And is the material that is in there, the information that is in that exhibit, collected at or near the time of the individual toll calls?
A. Yes, it is.
Q. And is it relied upon to conduct the business of Talk America?
A. Yes, it is.
MR. NICOLA: Your Honor, we would offer 458 into evidence at this time.
MR. SANGER: I just have a technical question. There's a different 458 that we were provided. Has that been withdrawn or --
MR. NICOLA: That was never identified.
MR. SANGER: Never provided to the Court? 8111

MR. NICOLA: No.
MR. SANGER: Oh, okay. I'm just now informed by counsel that what was provided to us was not provided to the Court or marked. So....
MR. NICOLA: We used a different exhibit number for this.
MR. SANGER: So based on that, I have no objection.
THE COURT: It's admitted.
MR. NICOLA: Thank you, Your Honor.
May I please have Input No. 4, Your Honor?
Q. Mr. Schwartz, I would just like to go to the first page of the toll records of that exhibit. I'm going to project a few items up onto the screen, and if you could please explain them to the jury once they're up there, okay?
A. Okay.
Q. Let's begin with the headings in the columns entitled A, B, C, D, et cetera. And I'm just going to point with the laser. If you can speak next to that second mike, please, it would be more convenient for you, and everyone will be able to hear you.
Could you tell the jury what's in this section, the first line, Section A, please?
A. That's a number where the call would originate from.
Q. Is that the number that corresponds to the 8112

subscriber?
A. Yes, it does.
Q. The customer?
A. Yes, that's correct.
Q. Okay. And is that a mobile phone number or is that a landline?
A. That's a landline.
Q. Do you provide local service for that, or did you during the time period in question?
A. We did not.
Q. Okay. What kind of service did you provide to that particular landline?
A. We provided LD service only.
Q. And LD, for those of us who don't know?
A. Long distance.
Q. Long-distance service. What's in Column B?
A. Column B is where the call would have terminated.
Q. What does that mean?
A. That means where the receiver would have been picked up on the other end.
Q. The number that was dialed by the person at the 9279 number?
A. That's correct.
Q. Okay. Column C, is that the date of the call?
A. The date and the time. 8113

Q. Do you know whether the time stamp is based on a particular time zone?
A. It is on the time zone where the call originated from.
Q. So if the phone number is registered in Los Angeles, it's going to be in Pacific Coast time, correct?
A. Correct.
Q. The next column seems to indicate a place.
A. That is the origination column date.
Q. Okay.
A. That is the origination which corresponds to the Column A.
Q. Column E appears to be the state, obviously, correct?
A. Correct.
Q. Correct?
A. Correct, I'm sorry.
Q. And of course there's Column H and Column I. What is Column H, please?
A. Column H is actually the duration of the call, from the time the call is received until the call was terminated.
Q. So that's the actual time that the call lasted?
A. Correct.
Q. And what is this over here, Column I?
A. That would be the time that the call was 8114

billed for.
Q. Okay. For example, in this column, H, on the second line, a 34-second call results in one minute worth of billing?
A. Correct. That is correct. Common practice in the telecommunications industry.
Q. We've heard that, yes.
I'd like to direct your attention, please, to the middle of this chart, if I may.
Beginning with the entry on line 25 --
A. Okay.
Q. -- this would be the calling number, Mr. Jackson, correct?
A. That would be the origination of the call for Mr. Jackson, correct.
Q. And this number here, (201) 213-0763, is the number that was placed -- or dialed by whoever was using this phone?
A. Placed and terminated at that number, correct.
Q. Okay. And does this call on Item No. 24 -- excuse me, Item No. 25 indicate the call was a completed call?
A. Yes.
Q. How can you tell that?
A. By the duration of the call.
Q. Over here, the 6:32?
A. That's correct. 8115

Q. Which on the bill appears to be what, seven minutes?
A. What line are we looking at? 25?
Q. Yes, right where the pointer is.
A. That's correct. Well, six minutes and 32 seconds. Billed for seven minutes.
Q. Okay. And that's how Cingular bought AT&T. Okay. Here we go. Line No. 27, same number, to Morristown, New Jersey?
A. Correct.
Q. And that call lasted 15 seconds, correct?
A. Correct.
Q. Now, is that a completed call, if it lasts 15.3 seconds?
A. Yes. Any call -- I'm sorry.
Q. Explain that, please.
A. Well, any call that is entered into the record, if the call was not answered, if there was not an answer on the telephone, there wouldn't be a record for the call because the call would not have terminated. But once the call is received and answered, regardless of one second or 20 seconds, or as far as ten minutes, there would be a record of the call.
Q. Okay. So does that mean that this call was either answered on the other end or it got forwarded to voice mail or something like that?
A. Any one of those possibilities is possible, 8116

1 correct.
2 Q. Okay. And this 15 seconds also costs a
3 minute, right?
4 A. That is correct also.
5 Q. Going down the list to Item No. 28 on the
6 left, same number was dialed to Morristown, New
7 Jersey, at 11:53?
8 A. That's correct.
9 Q. Is this military time?
10 A. Yes.
11 Q. So the next call down here at 1320 hours,
12 that's actually 1:20 p.m., correct?
13 A. That's also correct.
14 Q. And the 1:20 p.m. call lasted one minute and
15 eight seconds?
16 A. And billed for two minutes, if that's what
17 you're asking, yes. Yes, it did.
18 Q. This is my favorite one right here.
19 The next call appears to be the same number,
20 is that correct, on line 30?
21 A. Yes. That's correct.
22 Q. And that call was placed at 1324, 1:24 in
23 the afternoon, correct?
24 A. Yes, that's correct.
25 Q. To Morristown, New Jersey, for a period of
26 2.4 seconds?
27 A. That's correct.
28 Q. Immediately thereafter, at 1334 hours, that 8117

number was called again, correct?
A. That's correct.
Q. And that call lasted 3.1 seconds?
A. That's also correct.
Q. And in total, that was two minutes, in telephone company time, right?
A. That's also correct, yes.
Q. You can tell I enjoy this, huh?
The remainder of these calls, at 1539 hours, Item 32, Item 33 at 1407 hours, Item 34 at 2036 hours, Item 35 at 2043, and Item 36 at 2048, were all to the same phone number in Morristown, New Jersey, right?
A. That is correct.
Q. And they were all completed calls?
A. That is correct also.
Q. Now, I believe I misspoke and called 1359 1539. So Item 32 is actually a call placed at 1359 or nearly two o'clock in the afternoon, right?
A. That's correct.
Q. Okay. Now, beginning with Item 36 -- 37, excuse me, on February 16th, 2003, at 4:07 in the afternoon, was a call placed to a phone number in Wyckoff, New Jersey?
A. That's correct.
Q. And what does your record reflect that phone number to be?
A. (201) 847-7576. 8118

Q. Now, you have no way of knowing whether the receiving phone call -- excuse me, the number dialed is a cellular phone or a landline, correct?
A. You could gather the information. I do not know. You could gather the information if you had to gather it. You could do that.
Q. By some kind of a cell site?
A. Or a customer service record. You could request what we call a "CSR," which would be a Customer Service Record, for the receiving call.
Q. How long are those records kept?
A. I believe a record should be kept for eight years, is what a telephone record is required to be kept, so --
Q. Okay. Would the subscriber information on this end of the phone call also tell you whether it's a cell phone or a landline?
A. Yes, it could.
Q. Okay. Now, beginning with Item 37, and continuing down to Item 41, there appear to be four -- four calls in a row between four o'clock in the afternoon and approximately 10:23 the following day, February 17th, to the same number in Wyckoff, New Jersey; is that correct?
A. That's correct.
Q. And were those completed calls?
A. Yes, they were.
Q. Proceeding to Item 42, was a different 8119

1 number called on February 17th of 2003 at 11:24 in
2 the morning?
3 A. Yes. Different between 41 and 42 is what
4 your -- is the question?
5 Q. Yes.
6 A. Yes, different.
7 Q. Is that the same phone number that was
8 called on the 15th to Morristown, New Jersey?
9 A. Yes, it is.
10 Q. Okay. And was that a completed phone call?
11 A. Yes.
12 Q. And how long did that one last?
13 A. Item 42?
14 Q. Yes, please.
15 A. It looks like 17 minutes and 39 seconds,
16 billed for 18 minutes probably.
17 Q. There you go. Okay.
18 And the item right below 42 is 43.
19 A. Right.
20 Q. Could you tell us about that phone call
21 including the location and duration, please?
22 A. It looks like it was 26 minutes and 15
23 seconds to Wyckoff, New Jersey. The (201) 847-7576
24 number.
25 Q. Would you turn the page, please? Okay. I'm
26 trying to get this up there. How about we just do
27 it verbally.
28 Items 45 through 48 -- excuse me, 45 through 8120

47, are they all telephone calls placed from the Jackson residence, Jay Jackson residence, to the 7576 telephone number in Wyckoff, New Jersey?
A. Yes, they are.
Q. And were they all completed phone calls?
A. Yes, they were.
Q. And did they occur between February 18th of 2003 and February 19th of 2003?
A. Yes, they did.
MR. NICOLA: Your Honor, I have no further questions of this witness.

CROSS-EXAMINATION
BY MR. SANGER:
Q. Mr. Schwartz, how are you?
A. Pretty well.
Q. Good. I think you need to kind of list more towards that microphone, if you could.
A. This one?
Q. Yes, please.
The phone records that you just testified to are in the name of Jay Jackson; is that correct?
A. Yes, that's correct.
Q. And there's a billing address in Los Angeles; is that correct?
A. That's correct.
Q. Is this a land-based landline phone or is this a mobile phone? 8121

A. It's a land-based phone.
Q. Is it your understanding this is a residence phone?
A. It is. Our company only provides LD service to residence phones. We don't provide any type of cellular service.
Q. So this particular phone number -- let me see if I can put one of these up here.
Your Honor, with the Court's permission, I'll put up page -- I guess it's really just page one. I'll put up my copy of page one and see if this looks like your copy of page one of Exhibit 458.
A. That is.
Q. All right. So you can look at yours, because it's a little hard to read.
A. Okay.
Q. But look up here first just so you can see what I'm pointing at. I'm going to point on the screen at a phone number up there. Is that the phone number that is associated with this account?
A. Yes, it is.
Q. And the account is for Jay Jackson, correct?
A. That's correct.
Q. Now, I'm going to ask you to tell us what the -- well, let me ask --
Your Honor, I need to ask for the actual phone number. It's up there. Is that all right if 8122

I do that? I don't want to --
THE COURT: Yes. It was the other information that we were concerned about, the Social Security numbers, that kind of thing.
MR. SANGER: That's fine. Thank you. I just want to make sure.
Q. Can you read that phone number from the exhibit?
A. From your exhibit or my exhibit?
Q. You have the official exhibit. I'm putting up a copy.
A. All right. Yes, I can.
Q. Please read it.
A. (213) 739-9279.
Q. All right. Now, your phone company provided service, provided long-distance service to that number; is that correct?
A. That's correct.
Q. Does that mean anytime that the phone was picked up and a call was made on that telephone number ending in 9279, anytime the phone was picked up and a long-distance call was made, it would be automatically billed to your carrier?
A. That's correct.
Q. Is there a way to bill it to some other carrier?
A. No.
Q. All right. So I'm going to put up page two 8123

with the Court's permission. And if you can look in the book there so you can actually read it. But I'll also help you to stay closer to the microphone, because we have that microphone issue here.
These records start when?
A. On page one is what we're talking about?
Q. Yeah. I mean the records you just --
A. January 1 of .03.
Q. January 1 of .03. And these appear to be the comprehensive records for that period of time; is that correct?
A. They are, correct.
Q. All right. Now, do you know what carrier this customer, Jay Jackson, had for his regular telephone services?
A. It would -- probably -- I don't know specifically. It would probably be Pac-Bell.
Q. Pac-Bell. Okay. So if we had seen, for instance, on February 4th a Pac-Bell record showing a call from this number to Reseda, two calls to Reseda on February 4th, they were logged in on the Pac-Bell statement, those calls would not necessarily show up here; is that right?
A. I'm not sure I understand your question.
Q. Well, let's do it this way. I'll just ask you to look at yours, because I can't read mine from the thing there.
If you look at the entries -- 8124

I'm going to put that page back up again, Your Honor, if I may. Now that I've seen it, I'll do it this way here.
I'll just try to look at the particular entries here. If you look at the entries for -- starting at the top, it starts with 1-1-03, correct?
A. Correct.
Q. And it goes through the month of January. There is a total of 11 calls through January, correct? Well, no, I'm sorry, there's a total of nine calls. It starts on line 3 and goes to line 11, correct?
A. Right.
Q. And --
A. 1-20-03 would be the last call in January.
Q. Okay. And then as far as your carrier is concerned, the next charge you have is on 2-4-03, correct?
A. To Newport News, Virginia.
Q. That is a call to Newport News, Virginia.
A. Talking about line 12, correct?
Q. Line 12, correct.
A. That's correct.
Q. And then on 2-5-03, there's a call to Naples, I suppose.
A. I'm sorry. Yeah. Naples, Florida, correct.
Q. All right. Now, I'm going to show you Exhibit 451, and I'm going to have to ask the clerk 8125

for that, if I may, please. Should be a book.
May I inquire of the government to see if they have that book there, by any chance? We're looking for an Exhibit 451, which is the Pac-Bell records. You don't have it there at the counsel table is what I was inquiring.
MR. NICOLA: I don't. It was released for us to redact per the Court's instruction. I didn't bring it down with me.
THE COURT: She couldn't hear what you said.
MR. NICOLA: I'm sorry, Your Honor. I took that per the Court's instructions to redact. I haven't brought it back.
THE COURT: Try to blame it on me, will you?
(Laughter.)
THE COURT: That's the book you have.
MR. NICOLA: Yes. It's one of several.
MR. SANGER: Okay. May I confer with counsel, see if we can find a way around this?
THE COURT: Yes.
(Discussion held off the record at counsel table.)
MR. SANGER: Your Honor, with the stipulation of counsel, we'll use my copy and the one that was provided to me of 451, Tab 6. It's already been received into evidence. And that's what we'll use in a second, if I may.
THE COURT: All right. Good. 8126

Q. BY MR. SANGER: Okay. Mr. Schwartz, let me ask you, how long have you worked in the phone business?
A. Nine years.
Q. And are you familiar with phone billing records in general?
A. Yes, I am.
Q. And how many companies have you worked for in that period of time?
A. Just one.
Q. Which one is that?
A. Talk America.
Q. Has Talk America been in existence all that time?
A. Yes, that's correct.
Q. Oh, okay.
All right. I'm going to show you a phone record that has been admitted into evidence, which is 451, Tab 6, and it's page three of Tab 6. And this was -- I think I can say for your benefit, to orient you, this was provided by a Pac-Bell representative.
And I'll put that up if I may, Your Honor.
THE COURT: Yes.
Q. BY MR. SANGER: Now, this is -- I'll let you take a look at that for a second and see if you can orient yourself and get a feel for that. That is --
A. It looks like a phone bill. 8127

Q. There you go. All right. And if you look in the upper left-hand corner, the indication is that this phone bill pertains to this phone number, (213) 739-9279.
A. Okay.
Q. See that? Is that the phone number that's referred to on your Exhibit 458, the Talk America exhibit that's in front of you?
A. It is.
Q. I think you have to lean into the microphone.
A. Yes, it is.
Q. Oh, that one works, too. All right. Okay. And I guess what I was referring to is there are a couple of entries here for February the 4th at 6:11 p.m. and then 6:14 p.m., both four-minute calls to a number apparently in Reseda, an (818) number.
And my question to you is, assuming this is the same telephone, why would there be two calls billed to Pacific Bell on that date and another long-distance call to - where did we say? - Newport News billed to Talk America on the same date?
A. Why would there be?
Q. Yeah.
A. So you're asking why a long-distance call would show up on a local phone bill?
Q. Yes. 8128

A. I'm not familiar with the geography of California, but Reseda may be within the latta, and it may not reflect as a long-distance call.
Q. Could you turn around and talk into the mike there, please. You said -- I think everybody heard, but you said "within the latta"?
A. Correct.
Q. And what is a latta? I'm afraid to ask.
A. For lack -- I guess to -- a layman term would be an area code or a geographic area in which the phone call would be billed in, so -- do you want me to explain it or --
Q. Go ahead.
A. A latta is the area where the phone call -- you'd be charged different rates when you went across a latta. And once you cross a latta, it would be considered a long-distance call.
Q. All right. So your local phone bill might have a call that crosses a latta but does not invoke your carrier's business?
A. That's correct.
Q. All right. So if I then put 458 back up, and this is page two, the calls that we've just referred to there are not inconsistent with your carrier providing service during that same period of time; is that right?
A. No.
Q. Okay. Thank you. I just have a couple of 8129

more questions here. And let me look at this first.
Yes, all right. I'm going to put this up
and we'll again try to orient ourselves. Okay.
You're welcome to look at the actual exhibit in
front of you, but I'm going to refer to Line 17, 18,
and 19 from February the 11th, 2003. Do you see
those?
A. I do.
Q. Okay. And your bill would reflect only
outgoing calls, I suppose, unless somebody called
collect, correct?
A. Outgoing only, that's correct.
Q. So it appears on February the 11th, 2003,
there were three outgoing calls to Santa Barbara; is
that correct?
A. That's correct.
Q. And those three calls were at 2322 hours,
which would be 22 minutes after eleven o'clock at
night, correct?
A. Correct.
Q. And the next -- that's to one number. And
then the other two calls are to the same number. I
didn't say that correctly. The first call is to
a -- one number. And the second two calls are to
the same number?
A. The first one's to 2300, and the second two
are 2724.
Q. And the second two were placed at 11:23 at 8130

1 night and 11:49 at night, correct?
2 A. Yes.
3 MR. SANGER: Let me have just one more
4 second, if I may, Your Honor, please.
5 All right. I have no further questions.
6 MR. NICOLA: No questions, Your Honor. See
7 you □latta.□
8 THE COURT: Call your next witness.
9 MR. NICOLA: Crystalee Danko.
10
11 CRYSTALEE DANKO
12 Having been sworn, testified as follows:
13
14 THE WITNESS: I do.
15 THE CLERK: Please be seated. State and
16 spell your name for the record.
17 THE WITNESS: Crystalee Danko.
18 C-r-y-s-t-a-l-e-e; Danko, D-a-n-k-o.
19 THE CLERK: Thank you.
20
21 DIRECT EXAMINATION
22 BY MR. NICOLA:
23 Q. Good afternoon, Miss Danko.
24 A. Good afternoon.
25 Q. I've placed in front of you Exhibit 454,
26 correct?
27 A. That's correct.
28 Q. Do you recognize that exhibit? 8131

A. Yes, I do.
Q. Have you had an opportunity to review it and its contents before you came to court today?
A. Yes, I have.
Q. Can you tell the jury, please, what exhibit four fifty --
A. Five.
Q. -- five is? Excuse me.
A. Yes, these are Sprint cell phone records and landline records, including subscriber information and billing information.
Q. And are the contents of Exhibit 455 those which are regularly made in the course of your business?
A. Yes, they are.
Q. Would you open up Exhibit 455 in the index, please?
A. Yes.
(Off-the-record discussion held at counsel table.)
MR. NICOLA: Okay. Just want to make sure we're all on the same page.
Q. With respect to Exhibit 455, did you compare the contents of the table of contents with the information contained in the corresponding tabs within the binder?
A. Yes, I have.
Q. Okay. 8132

MR. SANGER: We're not on the same page.
We're not on the same page, I'm sorry. There is
no -- there's no -- there's no table of contents on
this one.
MR. NICOLA: You can use mine.
MR. SANGER: Okay. Thank you. Let's see
what you did here.
MR. NICOLA: You ready?
MR. SANGER: Excuse me just one second.
Q. BY MR. NICOLA: I'm sorry.
A. That's okay.
Q. With respect to the information contained in
Tab No. 1, is that subscriber information for a firm
listed in the table of contents?
A. Yes, it is.
Q. Okay. And are there telephone numbers that
your records show connected with that firm?
A. Yes.
Q. And are they also on the table of contents?
A. Yes, they are.
Q. Would you read those telephone numbers into
the record, please?
A. (702) 362-5118; (702) 222-2500; (702)
365-6940.
Q. If you would turn to Tab 1 of your exhibit,
and does the first page of the exhibit list the same
name that is under Subscriber Name in the table of
contents? 8133

A. Yes, it does.
Q. If you would turn to page two. And what is page two?
A. It is listing information, listing address and names for the information on the front page.
Q. Do those names correspond to the 222-2500 number?
A. Yes, they do.
Q. And is one of those names a David LeGrand?
A. Yes, it is.
Q. Would you please turn the page and go to the page marked 3 of 11. Are you there?
A. Yes, I am.
Q. And on page 3 of 11 of what appears to be a February 21, 2003, phone bill, is there a list of telephone numbers which include the 362-5118 and 365-6940 numbers listed in the table of contents?
A. Yes.
Q. Okay. And do all those telephone numbers belong to the firm of Hale Lane Peek Dennison and Howard?
A. Yes, they do.
Q. If you would turn to Tab 2, please. Now, does Tab 2 contain the subscriber information for a business entitled, Geragos & Geragos?
A. Yes, it does.
Q. And is there a telephone number on the table of contents which corresponds to the number you have 8134

on record for Geragos & Geragos?
A. Yes.
Q. And what is that number?
A. (213) 864-2100.
Q. If you would turn to page two, the second page, do you find an additional number for the business Geragos & Geragos?
A. Yes.
Q. And what is that number?
A. (213) 625-3900.
Q. Turning to Tab No. 3, does Tab No. 3 contain subscriber and billing information for one Vincent Amen?
A. Yes, it does.
Q. Is there a cellular number associated with Mr. Amen in your subscriber records?
A. Yes.
Q. And what is that number, please?
A. (201) 838-4345.
Q. If you would turn, please, to Exhibit No. -- excuse me, Tab 4 in Exhibit 455. Do you have in Tab 4 the subscriber information for one Frederic Marc Schaffel?
A. Yes, I do.
Q. And do the numbers in the table of contents correspond to the subscriber information in your Sprint records?
A. Yes, it does. 8135

Q. Is there an additional telephone number in your subscriber information for Mr. Schaffel that is not on the table of contents? If you would look at page one.
A. Yes, there is.
Q. And what is that number?
A. (818) 876-0029.
Q. And can you tell if that is a cellular number or a landline?
A. I cannot tell by these records.
Q. If you would turn briefly to Exhibit No. 5. Does Exhibit 5 contain the subscriber information for a Maria Farshchian?
A. Yes, it does.
Q. F-a-r-s-h-c-h-i-a-n?
A. Yes, it does.
Q. Okay. And does the Tab No. 5 also contain the toll records -- excuse me, the billing for the period of January, February and March of 2003?
A. Yes, it does.
Q. Are the records contained within Exhibit 455 records which Sprint regularly relies upon in the normal course and scope of their business?
A. Yes, they are.
MR. NICOLA: Your Honor, we would offer 455 into evidence at this time, please.
MR. SANGER: On these, we have the objection of relevance as to, in particular, some of the 8136

1 subscribers. It's the same objection that I made
2 previously, that there's no foundation to show
3 relevance. And I think the Court --
4 THE COURT: I'll admit them, subject, as I
5 did the others, to the District Attorney tying up
6 the relevance.
7 MR. SANGER: Thank you.
8 MR. NICOLA: Thank you, Your Honor.
9 Your Honor, may I publish?
10 THE COURT: Yes.
11 Q. BY MR. NICOLA: Mrs. Danko? It's Missus?
12 A. Yes.
13 Q. If you would please turn to the billing
14 information for Fred Schaffel and find the page that
15 corresponds to February 7th of 2003, please.
16 A. Okay.
17 Q. Have you found it?
18 A. Yes.
19 Q. Okay. Does the billing for February 7th of
20 2003 begin on page eight of the February 21 bill?
21 A. Yes.
22 Q. Okay. I'd like to talk to you about a code
23 on your bills which is denoted as □CW.□
24 A. Yes.
25 Q. Okay. On line -- excuse me. On Line No.
26 194, there's a □CW□ next to the date and time stamp
27 of 10:17 a.m., entitled □Incoming.□ Can you explain
28 to us how an incoming call -- what an incoming call 8137

on your system means, call waiting?
A. Yes. Our subscriber was on the phone. Either he had received an incoming call or he had made an outgoing call. Either way, he was on a phone call. And during that phone call, he received another call. And when he received that second call, he answered it. And that's what indicates here, an incoming call. And a □CW□ over there is what indicates the call waiting was used.
Q. Okay. Now, after he received, he or she --
A. Or she.
Q. After the call came in at 10:17 a.m., can you tell whether or not your subscriber stayed on the phone with the call immediately preceding?
A. For one minute or less.
Q. Okay. How can you tell that?
A. Our corporation bills in one-minute increments, and one minute is listed here next to the call waiting indicator.
Q. So this could have actually been a 2.4-second call?
A. Yes.
Q. My question, however, is, if the caller was on the phone to this number at 10:16 a.m., and it lasted for six minutes, did this call actually interrupt this call?
A. Yes, it does.
Q. Okay. So the Entry 193, did that continue 8138

after the entry on 194?
A. Yes, it did.
Q. If you could please turn to page nine, and I'd like you to begin at line 215. I'll project that.
There appears to be the same call -- excuse me, the same code here a number of times. CW and CW?
A. That's correct.
Q. There's also this code right here, what does that mean, the 3W?
A. The 3W indicates that a three-way call was initiated.
Q. And how does that work on your system?
A. You would need to be on the phone call in the first place, just like the call waiting situation. In this situation, if you look at 2-7 at 3:13 p.m., there was an outgoing call. Our subscriber had made an outgoing call and was on the phone for approximately 14 minutes. During that time frame, at 3:22, our subscriber called out and conferenced in another number.
Q. Let me stop you for a minute. Where are you? Which line item?
A. I'm on line 230.
Q. Would you look at line --
A. Sorry.
Q. -- 218? 8139

A. That's kind of hard for you to see. How about line 217?
Q. Okay. Explain how that came about.
A. Our customer had received a call, an incoming call, at 3 -- at 1:13 p.m., and that lasted for seven minutes. During that call, they made a call out, three-waying into the (702) 222-2520 number.
Q. Okay. Would you expect, in a three-way call, that when the user of Mr. Schaffel's phone dialed the 222-2520 number, that would show as an incoming call on their system, if they record such things?
A. The receiver?
Q. Yes.
A. Yes.
MR. NICOLA: Okay. I think I have no further questions. Thank you.
THE COURT: Counsel?
MR. SANGER: No questions, Your Honor.
THE COURT: Good.
You may step down.
THE WITNESS: Thank you.
THE COURT: Next witness.
MR. NICOLA: Our next witness is Ms. Jennifer Simmons.
//
// 8140

JENNIFER SIMMONS
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: Jennifer Simmons.
J-e-n-n-i-f-e-r, S-i-m-m-o-n-s.
THE CLERK: Thank you.

DIRECT EXAMINATION
BY MR. NICOLA:
Q. Good afternoon, Miss Simmons. I'd like to hand you Exhibit No. 450, and ask if you recognize that, please.
A. Yes.
Q. What is it?
A. It's records of Nextel statements from Tavasci, Evvy; MJJ Productions.
Q. These are records of Nextel Phone Company?
A. Correct.
Q. Do you work for them?
A. Yes, I do.
Q. For how long?
A. Six years.
Q. And are you here today as their custodian of records?
A. Yes. 8141

Q. He's going to adjust your microphone.
A. Oh.
Q. Are you familiar with the contents of
Exhibit 450?
A. Yes.
Q. And is there a three-page table of contents?
A. Yes.
Q. Have you gone through the subscriber
information, the corresponding telephone numbers
that are listed out in that table of contents?
A. Yes.
Q. And have you confirmed the accuracy of the
entries on the table of contents?
A. Yes.
Q. With respect to Tab No. 1, does that contain
account statements for the telephone numbers (310)
901-7487 and (818) 402-7087 for the billing period
of February of 2003?
A. Could you repeat the second number? The
first one was correct.
Q. (818) --
A. Uh-huh.
Q. -- 402-7087?
A. Yes.
Q. Okay. I have the same question about those
two phone numbers in Tab No. 2, and I ask if the
contents of Tab No. 2 are the billing statements for
the month of March for those two numbers? 8142

A. Yes.
Q. And the same question with respect to those telephone numbers and the April billing statement. Are those contained within Tab No. 3?
A. Yes.
Q. Is the bill address under Tab No. 1, 2 and 3 - you can look at Tab 1 first - Evelyn Tavasci --
A. Yes.
Q. -- MJJ Productions, P.O. Box 6034, Sherman Oaks, California?
A. Yes.
Q. Is that the same on exhibits -- excuse me, the bills on Tabs 1, 2 and 3?
A. Yes, they are.
Q. With respect to Tab No. 4, can you describe what is in that exhibit, please?
A. This is a subscriber history, a description of each unit. It will show the unit's phone number; the user name of that unit that's listed in our bill; the radio I.D.; an IMSI I.D., which is for our network to identify each unit for billing purposes; a serial number, which is a SIM identification, which tells what piece of equipment it is, as well as the effective date of the activation, and if there was an expiration, meaning a cancellation of that unit, if it cancelled.
It also includes the account number for the 8143

1 bill, the billing name, and the billing address.
2 Q. Are there a number of phones -- excuse me,
3 phone numbers registered to an Evelyn Tavasci --
4 A. Yes.
5 Q. -- that are listed in the table of contents
6 under Tab No. 4?
7 A. Yes.
8 Q. Did you confirm that each one of those
9 telephone numbers corresponds to the information in
10 Tab No. 4?
11 A. Yes.
12 Q. And with respect to the billing information,
13 do all the bills appear to go to the address at P.O.
14 Box 6034 --
15 A. Yes, they do.
16 Q. -- Sherman Oaks, California?
17 Are some entitled, Ms. Evelyn Tavasci,
18 Attention: MJJ Productions?
19 A. Yes.
20 Q. And some are not, correct?
21 A. Correct.
22 Q. But they're all going to the P.O. Box at
23 6034?
24 A. Yes.
25 Q. I'd like you to turn, please, to Tab No. 5.
26 A. Actually, there is no Tab No. 5 in this one.
27 Q. Oh, I'm sorry.
28 A. That's all right. 8144

Q. It's actually Tab No. 7. Does Tab No. 7 contain four additional phones registered to an Evelyn Tavasci?
A. Yes.
Q. And are those phone numbers accurately printed on the table of contents on Exhibit 450?
A. Yes.
Q. Are the billing statements attached for the February billing cycle of the year 2003?
A. Yes.
Q. Okay. With respect to the final two tabs, No. 8 and No. 9, are the numbers listed in the table of contents and registered to an Evelyn Tavasci contained within the Tabs 8 and 9 for the months of March and April of 2003?
A. For 8 and 9, yes.
Q. And you confirmed both of those --
A. Yes.
Q. -- sections before you came to court?
A. Uh-huh.
Q. Now, with respect to the contents of Exhibit 450, are these all records which record the information contained at or near the time of each of the events recorded?
A. Yes. Yes.
Q. Nextel is just a wireless company, correct?
A. Correct.
Q. And none of these telephones are landlines? 8145

A. Right, they are all wireless.
Q. Okay. And does Nextel rely on the information contained within Exhibit 450 in the regular course of their business?
A. Yes, they do.
MR. NICOLA: We would offer Exhibit 450 into evidence.
MR. SANGER: I have the same objection.
THE COURT: All right. They're admitted, subject to connection later.
MR. NICOLA: Thank you, Your Honor. I have no further questions.
MR. SANGER: I have no questions, Your Honor.
THE COURT: Thank you.
Call your next witness.
MR. NICOLA: It's going to be Joe Corral.

JOE J. CORRAL, JR.
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: Joe J. Corral, Jr., C-o-r-r-a-l.
THE CLERK: Thank you.
// 8146

DIRECT EXAMINATION
BY MR. NICOLA:
Q. Good afternoon, Mr. Corral.
A. Afternoon.
Q. I'd like to show you Exhibit 457 and Exhibit 459, please. Do you recognize Exhibit 457?
A. Yes, I do.
Q. And what is it, please?
A. It's telephone records that were subpoenaed from Verizon.
Q. Do you work for Verizon?
A. Yes, I do.
Q. For how long?
A. Approximately 27 years.
Q. And are you here to testify as Verizon's custodian of records with respect to the California and I think it's New York records?
A. Yes, I am.
Q. And are the New York records kept in Exhibit 459?
A. Yes, they are.
Q. Okay. With respect to Exhibit 457, is there a table of contents with a number of entries corresponding to tabs in the exhibit?
A. Yes, there is.
MR. NICOLA: Would you give us just a moment.
MR. SANGER: Just one second, Your Honor, 8147

please.
THE COURT: Why don't we take our break now.
(Recess taken.)
THE COURT: Go ahead, Counsel.
MR. NICOLA: Thank you, Your Honor.
Q. Mr. Corral, we just started talking about the two exhibits in front of you. Why don't we start with the New York exhibit. Is that Exhibit 459?
A. Yes.
Q. And contained within that exhibit, is there subscriber information and toll records for Franchesco Cascio?
A. Yes.
Q. Does he have a billing address in New Jersey?
A. Yes.
Q. Are the records contained in Exhibit 459 those kept within the normal course and scope of the business of Verizon?
A. Yes, they are.
Q. And is the information contained within that exhibit gathered at or near the time of the event?
A. Yes, they are.
Q. And does Verizon rely upon those records to conduct their business?
A. Yes, we do.
MR. NICOLA: Your Honor, we would move 459 8148

into evidence at this time.
MR. SANGER: Same objection. I take it same ruling.
THE COURT: Same ruling, yeah. I'll allow it with the proviso that it's connected up later.
Q. BY MR. NICOLA: If you would please turn to Exhibit 457. Are those the records for Verizon California?
A. Yes, they are.
Q. And with respect to the ten numbers listed in the table of contents, are those landlines?
A. Yes, they are.
Q. I didn't ask you, but is it a landline in Exhibit 459 as well?
A. Yes, it is.
Q. Okay. And listed within Exhibit 457, is there a table of contents that lists five sections where the subscriber is the Neverland Ranch?
A. Yes.
Q. Have you examined the exhibit and all of its contents prior to your testimony today?
A. Yes, I have.
Q. And are the numbers listed for Neverland Ranch which are listed on the table of contents - those telephone numbers appear on your records contained within Tabs 1, 2, 3, 4 and 6 - do those numbers correspond to the information contained within those tabs? 8149

A. Yes, they do.
Q. Do your records show that the numbers listed for Neverland Ranch were active during the period of January through April of 2003 -- excuse me, through March of 2003?
A. Yes, they do.
Q. So those phone lines were active during that period of time?
A. Yes.
Q. If you would turn your attention, please, to the contents of Tab No. 5. Is that subscriber and billing information for one Rudy Provencio?
A. I'm sorry? Could you repeat the question?
Q. Are the contents of Tab No. 5 the subscriber and billing information for Rudy Provencio?
A. Yes.
Q. And is the corresponding telephone number for him (301) 473-5702?
A. Yes, it is.
Q. Okay. I'm going to show you some records, if you could please turn to page 22.
May I publish, Your Honor?
THE COURT: They're admitted, are they? Have these been --
MR. NICOLA: Oh, I'm sorry. The rest of the foundation.
Q. Are the contents of Exhibit 457 records which are kept within the ordinary course and scope 8150

of your business?
A. Yes, they are.
Q. And are the entries recorded at or near the times of the events recorded?
A. Yes.
Q. And are they records which Verizon regularly relies upon in the normal course of their business?
A. Yes, they do.
MR. NICOLA: We'd make our proffer at this time, Your Honor.
THE COURT: Are you asking that they be admitted?
MR. NICOLA: May we admit 457 in evidence at this time, Your Honor?
MR. SANGER: Same objection.
THE COURT: All right. Same ruling. It's admitted.
Q. BY MR. NICOLA: If you could turn to Tab 4, page 22 at the bottom, if I could direct your attention to this section of the phone bill. And maybe give us a little interpretation of what all this means, this string of numbers and letters and numbers. Start right here where it says, "0204," if you could.
A. Yes, it's a record of billable calls, and in this case, the first call on the very top shows the date, which would be "0204," or February 4th. The call that was made to would be Canoga Park - that's 8151

an abbreviation "CANO" - in California.
Q. Okay.
A. The time right after that is in military time, which would be 2234, which would convert to 10:34 p.m.
Q. Okay.
A. The numbers after that would be the number that was called, which would be (818) 876-0029.
Q. Okay. Is there a header column at the top of this? I'll focus on that so you can see that one more clearly.
A. Yes. It basically states calls billed to (310) 473-5702.
Q. And that corresponds to the subscriber's phone number, correct?
A. Yes, it does.
Q. Now, this column up here that says "Date," "Call," et cetera, that corresponds with the numbers down this -- these columns here?
A. Yes, they do.
Q. Okay. So when someone wants to read these records, if they want the phone number dialed, they go to the end of this block and count backwards to get to the area code, correct?
A. Yes. Or, on the very top, where it says, "MPA," which basically is the area code, that's where you can start, and in this case it's (818).
MR. NICOLA: Okay. Your Honor, I have no 8152

1 further questions.
2 THE COURT: Cross-examine?
3 MR. SANGER: Your Honor, I have no
4 questions.
5 THE COURT: Thank you.
6 Call your next witness.
7 MR. NICOLA: We have no other witnesses,
8 Judge.
9 THE COURT: Those are all the witnesses for
10 today?
11 MR. NICOLA: It is.
12 THE COURT: (To Mr. Sanger) Do you want to
13 go back and cross-examine? We've got some extra
14 time.
15 (Laughter.)
16 THE COURT: (To the jury) I'll see you
17 tomorrow morning at 8:30.
18 Counsel approach for just a moment. I want
19 to talk to you about our schedule for a moment.
20 (To the jury) You can go ahead.
21
22 (Discussion held off the record at sidebar.)
23
24 (The following proceedings were held in
25 open court outside the presence and hearing of the
26 jury:)
27
28 THE COURT: All right. Let me just put this 8153

on the record. We're going on the record.
The Court was just inquiring of counsel
about the schedule tomorrow, and there's anticipated
to be three witnesses tomorrow. Some will be
outside the presence of the jury and some will be in
the presence of the jury.
Do you think it will be a full day tomorrow?
Or what's your anticipation?
MR. SNEDDON: I anticipate it will not be,
Your Honor. But from there on, it will be.
THE COURT: They can't hear you back there.
Go ahead.
MR. SNEDDON: And I anticipate it will not
be a full day tomorrow. I anticipate on Monday and
Tuesday we will complete our case, and we will go
all the way through without a break until we finish.
THE COURT: And then you now anticipate we'll
complete the People's case Tuesday?
MR. SNEDDON: I believe, depending on
cross-examination, but we will not have any more
breaks. We will have all our ducks in order for
those two days.
THE COURT: Then the Court was addressing
with counsel Exhibits 809-A and 810-A, which are the
transcripts for -- 809-A is the transcript for the
CD tape of the phone conversation between Janet
Arvizo Jackson and Frank. And 810-A is the
transcript of the tape, CD, made during the Los 8154

Angeles Protective Services interview.
And they were previously accepted into evidence, and the Court's pulling them from evidence and having them lodged as transcripts, which is the proper procedure when you file a transcript with the Court. Unless the parties stipulate the transcript may go to the jury, the transcript doesn't go to the jury. So we're just correcting that.
The other transcripts all were lodged properly, and those were the only two that we found that were taken into evidence.
MR. SNEDDON: That's fine with us, Your Honor.
THE COURT: Is there anything else to take up before we recess for the day?
MR. SNEDDON: No, sir.
MR. MESEREAU: No, Your Honor.
THE COURT: All right. Court's in recess.
(The proceedings adjourned at 1:49 p.m.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify: That the foregoing pages 8033 through 8155 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on April 28, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, April 28, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
OFFICIAL COURT REPORTER